



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
PESTICIDE PROGRAMS

February 17, 2021

MEMORANDUM

TO: Regional Pesticide Supervisors

FROM: Kaitlin Picone, Chief
Intergovernmental and Community Relations Branch
Mission Support Division
Office of Chemical Safety and Pollution Prevention

KAITLIN
PICONE

Digitally signed by
KAITLIN PICONE
Date: 2021.02.17
09:05:25 -05'00'

Elizabeth Vizard, Chief
Pesticides, Waste and Toxics Branch
Monitoring, Assistance and Media Programs Division
Office of Enforcement and Compliance Assurance

ELIZABETH
VIZARD

Digitally signed by ELIZABETH VIZARD
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
cn=ELIZABETH VIZARD,
0.9.2342.1.9200300.100.1.1=68001003634
281
Date: 2021.02.17 18:42:35 -05'00'

SUBJECT: JOINT OPP/OECA FY2022-2025 FIFRA COOPERATIVE AGREEMENT
GUIDANCE and FUTURE PRIORITY DISCUSSIONS

Attached is the final version of the joint OPP/OECA 2022-2025 FIFRA Cooperative Agreement Guidance. Please share the guidance with the states, tribes and territories in your region. All applicants should use the updated FIFRA Guidance in negotiating cooperative agreements for FY2022.

As a reminder while the document is large, the main portion of the guidance, and particularly the matrices, provides most of the key information needed to understand EPA's expectations for National Pesticide Program Cooperative Agreements. When compared to the FY2018-2021 FIFRA Cooperative Agreement Guidance, the FY2022-2025 FIFRA Cooperative Agreement Guidance:

1. Updates most program areas to reflect feedback received on current issues and best practices;
2. Revamps the pesticides in water program area substantially to clarify expectations and better serve grantees;
3. Updates the worker protection and applicator certification and training program areas to reflect changes as a result of new rule requirements;
4. Eliminates two appendices that were no longer needed;
5. Revises the administrative section based on feedback from the regions and the Office of Grants and Debarment; and
6. Develops a FIFRA Grant Database to replace the FIFRA Work Plan and Reporting Template; all grantees will be required to use this database beginning FY2022.

This cover letter, final guidance and appendices will be uploaded to the EPA compliance website:
<https://www.epa.gov/compliance/state-oversight-resources-and-guidance-documents>.

Looking ahead, the transition to a new Administration provides an opportunity to discuss both current and

new priorities. As we begin meeting with the Agency's new leadership and learn more about ways to better serve vulnerable populations, we would like to explore these ideas and opportunities with you as well as our co-regulators. We anticipate discussion about future priorities at the next National Pesticide Managers Meeting in June and potentially additional brainstorming sessions this summer. We will share more information with you as these ideas are further developed.

Under the new leadership of Michal Friedhoff, Acting Assistant Administrator and Principal Deputy Assistant Administrator, OCSPP has already begun identifying current and future opportunities to increase equity across FIFRA and TSCA programs. This will allow OCSPP to build on efforts already occurring in the regions. OCSPP looks forward to a robust dialogue with you and our co-regulators as the year progresses and new senior leadership is in place across EPA headquarters and regions. OECA is preparing similar discussions as it awaits its new political leadership.

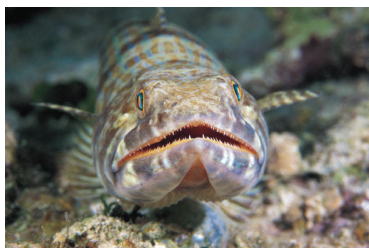
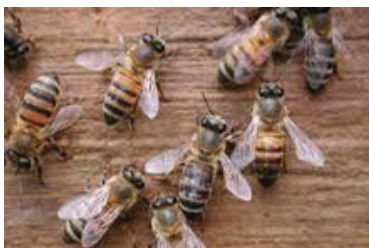
Finally, a sincere thank you for your thoughtful comments and assistance during the review cycle. We appreciate all the discussions and points of view. If you have any questions, please contact either Kaitlin Picone at 703-347-0378 for pesticide program questions, or Liz Vizard at 202-564-5940 for pesticide compliance monitoring and enforcement related questions.

Best wishes and stay safe.

Attachments

2022-2025 FIFRA Cooperative Agreement Guidance

February 17, 2021



U.S. Environmental Protection Agency
Office of Chemical Safety and Pollution Prevention
Office of Enforcement and Compliance Assurance

Table of Contents

I. INTRODUCTION.....	1
A. National Pesticide Program Goals.....	1
B. Guidance Framework	2
C. Multi-Year Agreements.....	3
D. Applicability of Guidance to Tribes	3
E. Work Plan and Reporting Framework	3
F. EPA Oversight Responsibilities.....	4
G. Regional Project Officer Resources.....	4
II. REQUIRED PROGRAM AREAS.....	6
III. GRANTEE PROGRAM AREA PICK-LIST	10
IV. SUPPLEMENTAL AND INACTIVE PROGRAM AREAS.....	15
V. ADMINISTRATIVE REQUIREMENTS.....	15
A. Grantee Information and Application Process.....	16
B. Performance Partnership Grants	16
C. Budget Requirements.....	16
1. OCSPP and OECA Cost-Sharing	17
2. Budget Detail	17
D. Work Plans.....	17
E. Accountability of State/Tribal Cooperative Agreement Funds	18
F. Quality Management Plans (QMPs) and Quality Assurance Project Plans (QAPPs).....	19
G. Laboratory Funding and Competency.....	20
H. Debarment and Suspension Certification	20
VI. APPLICATION REVIEW PROCEDURES	21
VII. ALLOTMENT OF STATE/TRIBAL COOPERATIVE AGREEMENT FUNDS.....	21
VIII. REPORTING and ENFORCEMENT MEASURES	21
A. Reporting	21
Table 1, Summary of Reports and Annual Due Dates	22
1. High -Level Pesticide Incidents and FIFRA Referrals.....	22
Table 2, Comparison Chart of FIFRA Referrals.....	23
B. Enforcement Measures/Measures eReporting.....	23

APPENDICES

Appendix 1: Supplemental Information for Program Areas	24
Appendix 2: FIFRA Grant Database Description and Links	55
Appendix 3: State Primacy under FIFRA and EPA Oversight Questions and Answers	56
Appendix 4: Enforcement Priority Setting Guidance.....	59
Appendix 5: OPP Guidance for Submission of State and Tribal Water Quality Monitoring Data	61
Appendix 6: FIFRA Cooperative Agreement Application Review Checklist	65
Appendix 7: EPA Pesticide State/Tribal Cooperative Agreement Application Review Procedures.....	72
Appendix 8: Guidelines for EPA Form 5700-33H in the FIFRA Grant Database	76
Appendix 9: Guidelines for WPS EPA Form 5700-33H in the FIFRA Grant Database	83
Appendix 10: Guidelines for Container/Containment Form 5700-33H in FIFRA Grant Database	85
Appendix 11: Reporting and Coordination of High Level Pesticide Incidents.....	87

I. INTRODUCTION

The U.S. Environmental Protection Agency's (EPA or Agency) Office of Chemical Safety and Pollution Prevention (OCSPP) and Office of Enforcement and Compliance Assurance (OECA) are issuing the national FY 2022-2025 Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Cooperative Agreement Guidance (Guidance), to be used by the EPA regional offices in negotiating and overseeing cooperative agreements with states, territories and Indian tribes ("grantees"), as authorized under Sections 23(a)(1) and 23(a)(2) of FIFRA.¹

EPA's Office of Pesticide Programs (OPP) historically co-authored this guidance with OECA, however a reorganization within OCSPP in October 2020 created the Office of Program Support (OPS) which works closely with OPP staff and managers. OPS has the responsibility for this Guidance and other pesticide and toxics work related to the regions, states, tribes and territories. For enforcement work, OECA's Office of Compliance (OC) and Office of Civil Enforcement (OCE) coordinate closely on enforcement issues and work regularly with OPS and OPP to ensure all four offices are providing consistent, coordinated leadership to regions, states, tribes and territories. As a result, you will see OCSPP, OPP and OPS referred to in the document for program-related activities, and OECA, OC, and OCE referenced for work related to enforcement.

The purpose of this Guidance is to identify pesticide program and compliance and enforcement program areas that must be addressed in state, tribe, and territory cooperative agreements and to provide information on work plan generation, reporting and other requirements.

OCSPP provides funds to support "program activities" for pesticide program development and implementation, including education, outreach, training, technical assistance and evaluation activities. OECA provides funds to support "compliance and enforcement activities," which include compliance assistance, compliance monitoring, case development and enforcement. This joint Guidance is intended to help coordinate the pesticide program and compliance and enforcement activities in support of the goals of the National Pesticide Program. Thus, the two sets of activities are interconnected, but may be handled either independently or under a single cooperative agreement. The types of agreements are described in Section V. Administrative Requirements.

A. National Pesticide Program Goals

The goal of the National Pesticide Program, consistent with FIFRA, is to ensure that pesticides are made available for use and are properly sold, distributed, and used in a way that is protective of human health and the environment. The National Pesticide Program protects people and ecosystems that may be exposed to pesticides, through its pesticide product registration and registration review program, outreach, technical

¹ Section 23(a)(1) of FIFRA, as amended, authorizes the EPA to enter into cooperative agreements with states, territories and Indian tribes ("grantees") to conduct pesticide enforcement programs and Section 23(a)(2) provides for certification and training programs. Pursuant to the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for FY1999 (Pub. L. No. 105-276, Title III, 112 Stat. 2499 (1998)), pesticide program implementation grants under Section 23(a)(1) of FIFRA are available for "pesticide program development and implementation, including enforcement and compliance activities. The regulations governing cooperative agreements are in Title 40 CFR Part 30 for institutions of higher education and Part 35 for states and tribes.

assistance, and compliance and enforcement programs. Achieving these protective outcomes requires collaborative efforts by citizens, pesticide users, states, tribes, territories, EPA regions, OCSPP, OECA, and other partners. As co-regulators, states, tribes and territories serve an essential role as the EPA's "eyes and ears" on the ground to identify pesticide concerns; to provide EPA feedback from the field to determine if intended risk mitigation measures are effective; to monitor compliance with the regulated community; and to take appropriate enforcement action when necessary.

The National Pesticide Program areas reflected in this Guidance are developed by OCSPP, OECA and the EPA regional offices with extensive input from states, tribes, and territories and are consistent with EPA's Strategic Plan and Agency priorities. To that end, the program areas listed in this Guidance reflect both national and regional pesticide concerns. However, the degree to which a particular pesticide issue, program area or activity is of concern in a particular state, tribe, or territory may vary. This Guidance attempts to recognize that reality and balance support for National Pesticide Program priorities, goals and performance measures, by providing grantees flexibility to focus on those national program areas which present the greatest concerns locally. Through this approach, we believe all national priorities will be addressed, although not by each grantee or with the same level of effort, and local pesticide resources will be directed to where they are most needed.

B. Guidance Framework

The framework of the national Guidance is structured to ensure usability, and clearly communicate expectations to grantees. The charts in Sections II and III concisely summarize the OCSPP and OECA program areas and activities that each grantee is required to address, coupled with a "pick-list" of national program priorities that the grantee must choose from to support. For many grantees, these charts will provide most of the information needed to understand EPA's expectations for FIFRA Cooperative Agreements. However, the specific details and context for each program area can be found in Appendix 1, Supplemental Information for Program Areas.

Programs areas listed in Sections II and III are designated as either required or pick-list program areas. The grantee and the EPA regional project officer will negotiate the acceptable performance level and resources necessary for all activities included in the work plan.

- **Section II: Required Program Areas** – These areas are of particular importance during the current cooperative agreement guidance period. While the level of effort invested in each required program area is negotiable between the grantee and EPA region, some level of effort is mandatory and must be reflected in grantee work plans.
- **Section III: Grantee Program Area Pick-List** – Grantees must select a subset of the listed program areas from the "pick list" based on regional and local considerations. All program areas on the pick-list are national priorities; however, EPA recognizes that the relative importance of each of these program areas may vary for each grantee based on their pesticide risk concerns. Grantees must include activities in their work plans to support one program area on the pick-list **funded by OPP**, and one program area **funded by OECA**. The selected program areas may be aligned (i.e., activities for both OPP and OECA are from the same program area) or from different pick-list program areas.

Most program areas and their associated activities are described broadly to allow grantees and regions flexibility to negotiate specific work plan activities that reflect the grantee's needs, concerns and resources. However, in a few cases such as Worker Safety and Applicator Certification, the required activities are very specific and must be included in the work plan. For these program areas, it is felt that completion of the specific activities by the grantee is needed to meet the national goals of the program.

The EPA acknowledges that certain activities and functions of a pesticide program are not predictable. For example, throughout a given period, a situation may arise whereby the cooperative agreement recipient must act to address a crisis or EPA may be required to obtain certain information or institute certain activities in the field. To the extent possible, this Guidance allows regions and grantees latitude within the agreements to account for such unforeseen circumstances. If necessary, work plans can be amended and re-negotiated.

Grantees may negotiate a Performance Partnership Grant (PPG, CFDA 66.605) in lieu of Consolidated Pesticide Enforcement Cooperative Agreements (CFDA 66.700). Under the PPG system, regions and grantees should continue to use this Guidance to ensure that program areas are addressed consistent with this Guidance. More information on PPGs can be found in Section V. Administrative Requirements.

C. Multi-Year Agreements

Regions are encouraged to pursue multi-year cooperative agreements and work plans for the period of this Guidance if both the region and grantee agree that such an approach would reduce administrative burden. However, such agreements and work plans are subject to availability of funds and changing priorities or current events. While multi-year work plans span the life of the agreement, work plans still need to be renegotiated annually to make sure any new issues are addressed, and budgets are adjusted as needed. In addition, funds are allocated annually and not guaranteed for multi-year agreements.

D. Applicability of Guidance to Tribes

EPA recognizes that available resources, program capacity and needs for many tribes are not comparable to those of most state pesticide programs. Therefore, all required program areas or activities listed in this Guidance may not be appropriate for all tribes and do not necessarily need to be included in tribal cooperative agreements. Regions may negotiate the tribal cooperative agreements and work plans on a case-by-case basis to focus on program and enforcement areas and levels of attainment relevant to the capacity and needs of the tribal pesticide program. A January 2011 document, *Guidance for Funding Development and Administration of Tribal Pesticide Field Program and Enforcement Cooperative Agreements*, provides more detail on funding tribal cooperative agreements. This can be viewed at: <http://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=P100AVNU.txt>. In addition, the FIFRA Project Officer Manual has a chapter on managing tribal grants (see Section F for a link to the Project Officer Manual).

E. Work Plan and Reporting Framework

In 2017, EPA developed a FIFRA Cooperative Agreement Work Plan-Report Template (FIFRA template) for cooperative agreements to reduce the administrative burden associated with work plan development and accomplishment reporting for both the grantee and EPA regional personnel. In 2019, the FIFRA template was converted to a web-based database called the FIFRA Grant Database. The FIFRA Grant Database is accessible through EPA's Central Data Exchange (CDX) at: <https://cdx.epa.gov>. This new system promotes a more efficient and user-friendly method of reporting, achieves more consistent work plans and reports throughout the country, and facilitates the compilation and review of national year-end data. Beginning Fiscal Year 2022, all grantees will be required to use this database to submit their FIFRA work plans and reports.

Additional information about the FIFRA Grant Database can be found in Appendix 2, FIFRA Grant Database Description and Links. Reporting requirements are summarized in Section VIII, Table 1, Summary of Reports and Annual Due Dates.

F. EPA Oversight Responsibilities

The Regional EPA Offices are substantially involved in the implementation of state, tribal and territory pesticide programs. Regional project officers will negotiate work plans, monitor the progress of work plan commitments, and provide fiduciary oversight. In some regional offices, oversight responsibility is divided between Project Officers (POs), who administratively manage various assistance agreements and Technical Contacts (TCs) who provide program-specific planning, implementation and evaluation for FIFRA cooperative agreements. Throughout this document, however, the term *Project Officer* refers to both roles. Regional offices, OCSPP and OECA communicate regularly on all aspects of FIFRA implementation. Project officers also ensure that states can maintain primacy. Appendix 3, State Primacy under FIFRA and EPA Oversight Questions and Answers, provides more information concerning “primacy” and EPA’s role in overseeing a state’s program where primacy has been granted. Additionally, the Project Officer Manual has a chapter on primacy which includes a resource chart to help project officers evaluate primacy (link is provided in Section G below).

G. Regional Project Officer Resources

EPA’s mission to protect human health and the environment is accomplished, in large part, by awarding funds to other organizations to administer environmental programs and projects. When EPA transfers funds for a public purpose, it uses a legal instrument called an assistance agreement, which may be in the form of a grant or cooperative agreement. Every year, EPA awards more than \$30 million in funding for FIFRA assistance agreements to states, tribes and territories. Regional project officers are responsible for ensuring the proper use of this funding. For general EPA project officer resources, visit the Office of Grants and Debarment (OGD) intranet site.

Two FIFRA resources have been developed to assist regional project officers managing FIFRA cooperative agreements. The FIFRA Project Officers Manual provides guidance in the management of FIFRA cooperative agreements. Project officers are encouraged to supplement the information in the Project Officers Manual with applicable regional guidances as well as any future additions provided by EPA headquarters. The FIFRA Project Officers Manual can be found here:
<https://www.epa.gov/compliance/fifra-project-officers-manual>

In addition, OCSPP and OECA developed an in-person, three-day FIFRA Project Officer Training Course in 2015. Several modules of this course were converted to on-line training in 2019. The link to these nine modules can be found on OGD’s website or by contacting OPS.

Regional project officers can also contact the Intergovernmental and Communities Relations Branch (ICRB) in the Mission Support Division in OPS for assistance, as well as the Pesticides, Waste and Toxics Branch (PWTB) in the Monitoring, Assistance and Media Programs Division in OC. Both branches house the regional, state, tribal, and territory liaisons for pesticide program and enforcement issues respectively.

II. REQUIRED PROGRAM AREAS

REQUIRED program areas represent areas of work that are important at a national level during this Guidance period. While all listed activities below are required, the level of effort invested in each required program area and activity is negotiable between the grantee and EPA region and must be reflected in grantee work plans. Note each program area is followed by a unique number that links to the FIFRA Grant Database. In some cases, the numbers are not sequential due to activities that are no longer active. See section IV for more information. Each of these program areas support the Agency’s Strategic Plan Goals for a Cleaner, Healthier Environment, and More Effective Partnerships.

Goal	Work Expectations Specific Activities Negotiated between Grantee and Region	
	Activities Supported by OCSPP Funding	Activities Supported by OECA Funding
A. Required Program Area: Basic Pesticide Program (01)		
Maintain a basic level of pesticide program implementation, compliance assistance, and enforcement to ensure a viable pesticide regulatory and enforcement program, achieve environmental results, and maximize success with the Agency’s performance measures.	Required Activities: 01.00.01 Complete administrative/management, fiduciary and reporting requirements associated with this cooperative agreement. 01.00.02 Build or maintain staff and management expertise on pesticide program issues and enforcement (e.g., attend training opportunities through PREP, PIRT, in-service training, or other appropriate activities). 01.00.03 Respond to pesticide inquiries, concerns, tips, and complaints from the public.	
The basic program includes previously required program areas such as container containment and soil fumigation; these areas are now part of the overall pesticide program.	Required Activities: 01.01.01 Provide outreach, communication, and training as appropriate as a result of new and emerging issues, rules, regulations, and registration and registration review decisions. 01.01.02 Report information on all known or suspected pesticide incidents involving pollinators to OPP (beekill@epa.gov) with a copy to the regional project officer.	Required Activities: 01.02.01 Project inspection numbers, and report inspection and enforcement accomplishments using the 5700 forms, and the performance measures form contained in the FIFRA Grant Database. 01.02.02 Maintain adequate pesticide laws, rules, and associated implementation procedures. 01.02.03 Provide outreach and compliance assistance. 01.02.04 Maintain and use a priority setting plan for inspections & investigations, addressing grantee and EPA-identified priorities (see Appendix 4 the Enforcement Priority Setting Guidance, and the FIFRA Compliance Monitoring Strategy at https://www.epa.gov/compliance/compliance-monitoring-strategy-federal-insecticide-fungicide-and-rodenticide-act-fifra). 01.02.06 Develop/maintain a searchable inspection/investigation and case tracking system and track all inspections/investigations and cases. 01.02.07 Ensure a minimum of one state employee obtains and maintains an EPA inspector’s credential. Where state authority is inappropriate or inadequate, or at EPA’s request, conduct FIFRA inspections with

		<p>EPA credentials according to EPA procedures, EPA forms and guidance documents.</p> <p>01.02.08 Refer all inspections conducted with federal credentials to the region.</p> <p>01.02.09 Refer cases to the region for enforcement consideration according to a mutually identified referral priority scheme as defined and agreed to in writing.</p> <p>01.02.10 Maintain and follow an enforcement response policy to develop and issue enforcement actions.</p> <p>01.02.11 Follow up on any significant pesticide incidents (as defined and agreed to, in writing) referred by EPA as required by FIFRA Section 27. For reference, see Table 2 as well as Appendix 1.A.iv, and the 1983 Final Interpretive Rule at: https://www.epa.gov/sites/production/files/2014-01/documents/1983firnotice.pdf.</p> <p>01.02.12 Conduct all federal inspections as negotiated and consistent with the FIFRA Inspection Manual.</p> <p>01.02.13 Maintain and follow a Quality Management Plan for the overall pesticide enforcement program.</p> <p>01.02.14 Maintain and follow Quality Assurance Project Plan(s) for pesticide sample collection and analysis.</p> <p>01.02.15 Maintain access to adequate laboratory support capacity.</p> <p>01.02.16 Assist EPA, upon request, in enforcing regulatory actions and monitoring Section 18 Emergency Exemptions, Section 24(c) Special Local Needs, and Section 5 Experimental Use Permits.</p>
--	--	--

B. Required Program Area: Pesticide Worker Safety: Worker Protection Standard (02)

<p>Ensure effective implementation of the Part 170 Worker Protection Standard (WPS) rule requirements and carry out WPS program implementation activities to prevent or reduce occupational pesticide exposures, incidents and illnesses from pesticides, especially ones that pose high risks or potentially high exposures to workers.</p>	<p>Required Activities:</p> <p>02. 01.02 Conduct WPS-related outreach, education and technical assistance on the WPS rule’s requirements to the regulated and affected community, with a focus on ensuring understanding of changes to the WPS Application Exclusion Zone (AEZ) and respirator-related requirements if applicable in the state/jurisdiction, as well as other identified priority areas.</p> <p>02.01.03 Support WPS worker & handler training:</p> <ul style="list-style-type: none"> a) Assist in the development (as needed) and distribution of EPA approved WPS training materials for workers and handlers to ensure that employers and trainers can comply with new WPS training requirements; b) Facilitate adoption of WPS Train-the-Trainer (TTT) programs to improve the quality and effectiveness of WPS trainers/training; 	<p>Required Activities:</p> <p>02.02.01 Monitor compliance with the WPS requirements associated with use. In targeting and prioritization within this activity, focus on high risk pesticides, large numbers of workers, high exposure scenarios, or repeat offenders.</p> <p>02.02.04 Update as needed: WPS inspection manuals, checklists, SOPs, case development procedures, and ERPs consistent with the revised WPS.</p>
--	--	--

	<p>c) Update existing state/tribal-level WPS training or educational materials and/or use updated materials as applicable/appropriate.</p> <p>02.01.04 Assure mechanisms and procedures are in place to enable coordination and follow-up on reports of occupational pesticide exposure, incidents or illnesses that may be related to pesticide use/misuse or WPS violations.</p> <p>02.01.05 Attend and participate in any WPS training efforts initiated by HQ or EPA Regions, and /or other WPS trainings taking place in a state or Indian country.</p>	
C. Required Program Area: Pesticide Worker Safety: Pesticide Applicator Certification (03)		
<p>Prevent or reduce pesticide exposures and incidents to humans and the environment by implementing the Part 171 Certification of Pesticide Applicators rule through EPA-approved certification plans and carrying out the pesticide applicator certification program implementation activities to increase the competence and expertise of applicators/handlers of restricted use pesticides.</p>	<p>Required Activities:</p> <p>03.01.02 Complete state or tribal certification plan reporting requirements (i.e. certification plan maintenance and annual reporting) using the Certification Plan and Reporting Database (CPARD).</p> <p>03.01.03 Monitor applicator training programs to ensure quality and that training programs comply with revised rule requirements and applicable standards/guidance.</p> <p>03.01.04 Complete any necessary regulatory, legislative and/or certification program changes to enable final EPA approval of revised state and tribal certification plans and implement EPA-approved certification plans in accordance with schedules and timelines contained in the plan and other applicable approval documents, and other applicable EPA guidance.</p> <p>03.01.05 Provide outreach, education and technical assistance to the regulated and affected community on the changes to state certification programs and requirements necessary to meet the revised Part 171 rule requirements.</p> <p>03.01.06 Update existing state/tribal applicator training and certification materials (manuals, exams, recertification programs, etc.) as applicable/appropriate to implement changes to state certification programs and requirements including those necessary to meet the revised Part 171 rule requirements.</p> <p>03.01.07 Attend and participate in any program-related training efforts initiated by HQ or EPA Regions, and/or other trainings taking place in the state or Indian country.</p>	<p>Required Activities:</p> <p>03.02.01 Monitor compliance with the pesticide applicator certification requirements. In targeting and prioritization within this activity, focus on sale/distribution of restricted use pesticides (RUPs) to applicators; and, where appropriate, structural fumigants and other fumigation sector(s) of concern.</p>

D. Required Program Area: Pesticides in Water (06)

<p>Ensure that pesticides do not adversely affect the nation’s water resources.</p>	<p>Required Activities:</p> <p>06.01.01 <u>Share existing data:</u> Provide EPA with access to water quality monitoring data either collected, referenced, or discovered by the grantee, that is not available via a readily/publicly accessible website. See OPP Guidance for Submission of State and Tribal Water Quality Monitoring Data, Appendix 5.</p> <p>06.01.02 <u>Identify POIs:</u> Develop a list of Pesticides of Interest (POI) for your program. The list should be discussed with your region. Include pesticides which have a potential to threaten local resources, as well as pesticides that may have water quality concerns in multiple regions. Attach the POI list to the FIFRA Grant Database. See the FGD Master User Guide link in Appendix 2 for attachment instructions.</p> <p>06.01.03 <u>Identify POCs:</u> Identify Pesticides of Concern (POC) by evaluating the POIs to determine whether human health or environmental reference points are likely to be approached or exceeded. Pesticides that are approaching or exceeding reference points may be considered POCs. Provide a list of POCs, and briefly explain why they are a concern.</p> <p>06.01.04 <u>Manage POCs:</u> Actively manage POCs beyond the label to reduce or prevent further contamination of local water resources. Briefly describe management actions.</p> <p>06.01.05 <u>Demonstrate progress:</u> Show that management actions have effectively reduced or are likely to reduce the risk that concentrations will exceed reference points.</p> <p>06.01.06 <u>Re-evaluate:</u> Upon receiving new information, reevaluate POIs and POCs. New information may include new hazard data, a significant change in use, or a new OPP risk assessment or registration. These evaluations could result in adding or removing POIs and/or POCs from current lists.</p> <p>06.01.08 Where appropriate, coordinate prevention and protection of water resources with other agencies responsible for water resource protection.</p> <p>06.01.09 Respond to OPP requests, as discussed with the region, to evaluate additional POIs that have water quality concerns.</p> <p>06.01.10 <u>Optional Monitoring:</u> Grant funds may be used to support a monitoring component of the water program, if 06.01.02</p>	<p>Required Activities:</p> <p>06.02.01 Monitor compliance and respond to pesticide water contamination events especially where water quality standards or other reference points are threatened.</p>
---	---	--

	through 06.01.06 are being addressed. This activity needs to be discussed with the project officer.	
E. Required Program Area: Product Integrity (19)		
The pesticide registration process is intended to ensure human health and environmental risks are adequately mitigated. Safeguard the basic integrity of the pesticide registration process to protect human health and the environment.	Required Activities: N/A	Required Activities: 19.02.01 Conduct pesticide establishment inspections. Focus on supplemental distributor products, contract manufacturers, fumigants, RUP or Tox-1 pesticides or other pesticides of regulatory concern to address composition, registration and labeling issues. 19.02.02 In support of 19.02.01, where appropriate, collect samples and submit to laboratory for formulation analysis to ensure product composition complies with terms of registration.
F. Required Program Area: Border Compliance (20)		
Prevent and reduce risks of unsafe products entering the United States by eliminating the distribution of unregistered, misbranded or adulterated pesticides	Required Activities: N/A	Required Activities: 20.02.01 At the region's request, conduct inspections of imported products at the point of importation or at the point of destination and collect physical samples when appropriate. 20.02.02 At the region's request, conduct PEIs to monitor imported products being used as source materials in the production of new products.

III. GRANTEE PROGRAM AREA PICK-LIST

The table below is a “pick list” of eight program areas. Grantees must include activities in their work plans to support one program area on the pick-list **funded by OPP**, and one program area **funded by OECA**. The selected program areas may be aligned (i.e., activities for both OPP and OECA are from the same program area) or from different pick-list program areas. Activities listed under each program area are examples of activities that help achieve the program goal. If there are other activities that are more appropriate and help reach the intended goal, then they can be used instead. Note each program area is followed by a unique number that links to the FIFRA Grant Database. Each of these program areas support the Agency’s Strategic Plan Goals for a Cleaner, Healthier Environment, and More Effective Partnerships.

Goal	Work Expectations Specific Activities Negotiated between Grantee and Region	
	Activities Supported by OCSPP Funding	Activities Supported by OECA Funding
G. Pick-List Program Area: Fumigants and Fumigation (5)		
Prevent or reduce incidents resulting from fumigation exposures.	N/A	05.02.01 Monitor compliance with fumigation labels. Fumigant uses of interest may include rodent control, granaries, warehouse commodities, etc.
H. Pick-List Program Area: Endangered Species Protection (07)		
Limit potential effects from pesticide use to listed species, while at the same time not placing undue burden on agriculture or other pesticide users.	07.01.01 Provide outreach and education on the Endangered Species Protection Program to current and potential pesticide users and pesticide inspectors. 07.01.02 Provide risk assessment and risk mitigation support using EPA's stakeholder engagement process at: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPP-2012-442-0038 a) Provide information such as crop data and pesticide usage data to OPP for use in listed species-specific risk assessments for upcoming registration review cases. b) Comment on exposure assumptions used in risk assessments. c) Comment on the feasibility of proposed, listed species-specific mitigation measures during OPP's standard processes of registration and registration review. d) Review draft bulletins if any are developed in a state's area. 07.01.03 Establish and maintain relationships with local and regional fish and wildlife agencies. 07.01.04 Work with certification and training staff and cooperative extension services to provide endangered species information for pesticide applicator training.	N/A
I. Pick-List Program Area: Bed bugs (08)		
Minimize the potential for pesticide misuse/overuse and spread of bed bug infestations by increasing understanding of	08.01.01 Provide education, outreach and technical assistance on pesticide safety and integrated pest management approaches, and guidance for responses to bed bug infestations.	N/A

integrated approaches to bed bug prevention and control and ensuring compliance with accepted control strategies.	08.01.02 Develop partnerships and cooperate with other federal, state, tribal, and local government agencies, and industry associations to address bed bug issues.	
J. Pick-List Program Area: Pollinator Protection (09)		
Ensure pollinators are protected from adverse effects of pesticide exposure.	<p>09.01.01 Establish/maintain relationships with federal, state, tribal and local agencies, beekeeper organizations, grower organizations (e.g., commodity groups), crop advisors, pesticide manufacturers (registrants), and other stakeholder groups within the region to assist where needed in combined pollinator protection activities.</p> <p>09.01.02 Provide continuing educational opportunities and outreach to keep growers, applicators, and handlers up-to-date on the most recent methods to protect pollinators, such as IPM, BMPs, or softer applications.</p> <p>09.01.03 Develop and implement or expand the scope of current managed and native pollinator protection plans by focusing on, for example: (1) reducing chronic exposure of pollinators to low levels of pesticides, (2) encouraging agricultural practices that reduce the overall environmental loading of pesticides, and (3) reducing possible pesticide contamination of wild blooming host plants near treated cropland. Work with co-regulators and stakeholders to develop measures to determine the effectiveness of these plans in reducing pesticide risk to pollinators.</p> <p>09.01.04 Provide technical assistance, education and outreach to support habitat restoration efforts to enhance/supplement forage for bees and other pollinators (e.g., Monarch Butterfly).</p> <p>09.01.05 Promote the use of BMPs, integrated roadside vegetation management, and mowing best practices in roadsides, rights-of-ways, or managed natural areas which may support pollinator habitat and in turn support foraging honeybees, monarch butterflies, and other pollinators.</p> <p>09.01.06 Update study manuals for certification exams to include methods (e.g., IPM, BMPs, etc.) to protect pollinators.</p> <p>09.01.07 Support residue analyses when pesticides are suspected to be involved in a reported bee kill incident, including residue analyses for pesticides that may have been used by beekeepers in the hive.</p>	N/A

	09.01.08	Educate beekeepers on the proper use of pesticides that are registered for use in hives, as well as the consequences of both misuse of registered pesticides and the use of unregistered pesticides in hives to manage pests and diseases.	
K. Pick-List Program Area: Integrated Pest Management (IPM) (10)			
Reduce the economic, environmental, and health impacts of pests, and the improper use of pesticides by helping agencies, organizations, and citizens proactively implement IPM strategies to address pest situations.	10.01.01	Provide education, outreach and/or training on IPM approaches to three key sectors – public health, agriculture, and within structures.	N/A
	10.01.02	Forge partnerships with state agencies, local governmental entities, tribes, universities, industry, and non-governmental organizations to increase the adoption of IPM.	
	10.01.03	Demonstrate the value of IPM in protecting human health and the environment.	
	10.01.04	Consult with state, tribal and local agencies on emerging issues associated with IPM and pesticides.	
L. Pick-List Program Area: Spray Drift (11)			
Reduce spray drift incidents by increasing awareness and adoption of spray drift reduction techniques and technologies.	11.01.01	Conduct education and outreach activities that increase awareness and adoption of spray drift reduction techniques and technologies.	11.02.01 Monitor compliance with spray drift label language and report investigation findings as part of year-end reporting.
	11.01.02	Gather spray drift incident data from the past 2-3 years to form an incident baseline and then gather additional incident data during the grant period. See Appendix 1 for the type of information that should be gathered.	
	11.01.03	Minimize environmental and non-target risks from public health pesticide applications, and report gathered data annually in a separate file attached as part of the end-of-year report.	

M. Pick-List Program Area: State and Tribal Coordination and Communication (12)				
Where appropriate, support tribal pesticide program capacity building and efficient use of state resources by improving coordination, communication and cooperation between tribes and states to advance pesticide program implementation and increase program efficiencies.	12.01.01	When conducting FIFRA-related training, involve state and tribal staff and managers in training as appropriate in an effort to share expertise and understanding.	12.02.01	When training FIFRA inspectors, involve state and tribal inspectors in the training as appropriate in an effort to share expertise and understanding.
	12.01.04	Inform tribes of state-issued FIFRA Section 24(c) or applications for a Section 18 registration.	12.02.02	Offer tribes an opportunity to ride along with state pesticide inspectors, and vice versa, for training purposes.
			12.02.03	Share information between states and tribes on tips, complaints, violators, and/or incidents that may be relevant in or near Indian country.
			12.02.04	Provide lab support to tribes.
			12.02.05	Work with tribes to identify establishments within tribal boundaries.
N. Pick-List Program Area: Emerging Public Health Pesticide Issues (21)				
Minimize pesticide risk while protecting human health from emerging public health issues.	21.01.01	Conduct outreach and education to impacted communities on methods to minimize pesticide risk while protecting human health.	21.02.01	Respond to clearly identified public health pesticide issues by providing compliance monitoring and enforcement.
	21.01.02	Coordinate with EPA regions, OECA and OCSPP on pesticide issues related to human health which may include Section 18, 24(c) and Experimental Use Permit requests.		
	21.01.03	Coordinate with all federal, state and local agencies on activities needed to protect human health from pesticide risk and minimize environmental and non-target risks from public health related pesticide applications.		
	21.01.04	Identify ways to minimize environmental and non-target risks from public health pesticide applications; promote IPM methods to minimize pesticide applications.		

IV. SUPPLEMENTAL AND INACTIVE PROGRAM AREAS

The FIFRA Grant Database includes program areas to record additional activities which support regional/local priorities allowable but not stated in the Guidance. These program areas may be selected from a dropdown list of all program areas in the FIFRA Grant Database. They are titled “Supplemental/Special Project” and “Regional Guidance Activity” for both program and enforcement work. These program areas should be completed if the region is providing supplemental funds for specific work negotiated with the grantee.

For those program areas that were either required or on the pick-list previously and have been “retired,” reporting on activities associated with these programs can still occur by selecting the inactive program area from the list of all program areas in the FIFRA Grant Database. This allows those grantees with multi-year agreements to complete work committed to previously. Please note that reporting on inactive program areas is only required for those grantees that have negotiated with their region to continue working on a program area that is no longer active. Grantees may choose to do this if they are continuing work that is important to their state, tribe, or territory. For the purposes of the FIFRA Grant Database, inactive program areas will retain their unique numbers.

V. ADMINISTRATIVE REQUIREMENTS

In December 2014, EPA adopted the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities guidance, which is commonly known as the Uniform Grant Guidance (UGG) (2 CFR 200). The UGG provides a government-wide framework for grants management that reduces administrative burden for non-federal entities receiving federal awards while reducing the risk of waste, fraud and abuse. The UGG supersedes requirements that were previously specified in OMB Circulars A-21, A-87, A-102, A-110, A-122, and A-133. The EPA supplements its adoption of the UGG as specified under 2 CFR 1500. Awards will be made in accordance with all administrative requirements and distributed as promptly as possible once the federal budget is finalized and allocations are received.

For the purpose of this section, “grantees” are referred to as “applicants” during the cooperative agreement application process. In accordance with 2 CFR Part 1500.8, EPA will not reimburse applicants for costs incurred before the date of award, unless it is a continuation award and the application was submitted by the applicant prior to the expiration of the previous budget period. If applications for continuation awards are not received before the end of the previous cooperative agreement, applicants will need pre-approval from the regional project officer prior to incurring costs. If you have any questions, contact your regional project officer for clarification.

In addition to this Guidance document, regions and applicants should consult the appropriate regulations in 2 CFR Part 200, 2 CFR Part 1500, and 40 CFR Part 35 Subpart A or B when preparing, negotiating, and evaluating applications. Applicants can find more information on grants policy, grants competition, grant regulations, and grant application information at <https://www.epa.gov/grants/how-apply-grants>. In addition, a FIFRA Cooperative Agreement Application Review Checklist is included in Appendix 6.

A. Grant Information and Application Process

EPA funds three types of FIFRA cooperative agreements: 1) pesticide compliance and enforcement activities, 2) pesticide applicator certification and training activities, and 3) pesticide program activities. Often grantees combine these activities into consolidated agreements or Performance Partnership Grants (PPGs) which are described below.

No matter which kind of grant is being applied for, all applications must be submitted via the Grants.gov website (www.grants.gov) and contain all required application forms which can be found at: <https://www.epa.gov/grants/epa-grantee-forms>. Regions will receive these applications from the Grants.gov site, and then review the application to ensure all of the required elements have been addressed. Applications will need to include grantee work plans as a pdf exported from the FIFRA Grant Database. For additional information on the application review process, see Appendix 7, EPA Pesticide State/Tribal Cooperative Agreement Application Review Procedures.

B. Performance Partnership Grants

In the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134, 110 Stat. 1321, 1321-299 (1996) and EPA's FY 1998 Appropriation Act, Pub. L. 105-65, 111 Stat. 1344, 1373 (1997), Congress authorized the award of PPGs in which states, interstate agencies, tribes, or intertribal consortia can choose to combine two or more environmental program grants into one grant with one combined budget. A recent grants policy created in partnership between the Office of Grants and Debarment and the Office of Intergovernmental Relations (the National Program Manager for PPGs) clarifies that universities are also eligible for PPGs, if they are instruments of the state. See Grants Policy Issuance (GPI) 15-01: Performance Partnership Grants for States for more information about university eligibility.

Under a PPG, a recipient can achieve cost and administrative savings through reductions in the amount of grant paperwork as well as simplified accounting requirements that do not require the recipient to account for expenditures in accordance with the original funding sources. With PPGs, recipients can negotiate work plans with EPA that direct federal funds where the recipients need them most to address environmental and public health problems. Recipients may try new multimedia approaches and initiatives, such as children's health protection programs, multimedia inspections, compliance assistance programs, and ecosystem management which may be difficult to fund under traditional categorical grants.

In negotiating a PPG, regions and applicants should continue to use this FIFRA Cooperative Agreement Guidance to ensure that program and enforcement priorities are met. States, tribes, and territories may apply for PPGs for a multi-year budget period not to exceed five years. The applicant must use the FIFRA Grant Database for the FIFRA portion of the work plan, and must include core performance measures or accountability measures, as defined by appropriate environmental statutes, regulations and EPA or state policy. PPGs are subject to the same reporting, joint evaluation and other accountability requirements described in 2 CFR Part 200, 2 CFR Part 1500, and 40 CFR Part 35 Subpart A or Subpart B.

C. Budget Requirements

Applicants under PPGs have one overall PPG budget for accounting and reporting purposes. This means that there is just one budget tracked and reported on annually. This gives applicants the flexibility to realign resources among environmental programs based on negotiated work plan priorities. In some cases, approval from EPA may be required prior to shifting resources. This also allows recipients to meet PPG match

requirements from a combination of program sources rather than with program-by-program matches. Match requirements for states can be found in 40 CFR Part 35.136(a) and (b). Match requirements for tribes are described in 40 CFR Part 35.536(b) and (c).

1. OCSPP and OECA Cost-Sharing

For Certification Programs, FIFRA, Section 23(a)(2), limits EPA’s share of the “total project costs” to not more than 50% of the total funding level. [Note: For tribal applicants, applying for a PPG the cost share is limited to no more than 10% for any included program with a match requirement over 5%. (See 40 CFR Parts 35.530 - 35.538.)]

Although 40 CFR Part 35 allows up to a 100% match for field programs activities and enforcement work, EPA recommends a 15% match. This may include in-kind services.

2. Budget Detail

The budget detail must reflect the application information submitted in grants.gov. The applicant must include supportive itemized information that expands upon the expenditures proposed and is reflected on the SF 424A. For multi-year assistance agreements, budget detail must be provided for all years the assistance agreement covers, and then modified during annual negotiations as appropriate. Specific information regarding the level of detail is negotiated with the regional project officers on an annual basis. For assistance with budget development, please see [RAIN-2019-G02: Interim General Budget Development Guidance for Applicants and Recipients of EPA Financial Assistance](https://www.epa.gov/grants/rain-2019-g02) at <https://www.epa.gov/grants/rain-2019-g02>.

D. Work Plans

Applicants must attach the information entered into the FIFRA Grant Database to their application submitted through grants.gov consistent with the requirements in 2 CFR Part 200. The data must include the following:

- The work plan components to be funded under the cooperative agreement;
- The detailed budget;
- The evaluation process and associated reporting schedules in accordance with 2 CFR Part 200; and
- The roles and responsibilities of the applicant and EPA in carrying out the work plan commitments.

EPA’s Grants Policy Issuance 11-03 requires negotiated work plans to include three “Essential Elements” that link the work plan commitments to EPA’s Strategic Plan. A current version of EPA’s Strategic Plan can be found on EPA’s website at: <https://www.epa.gov/planandbudget/strategicplan>. These Essential Elements are:

1. Strategic Plan Goal
2. Strategic Plan Objective
3. Work Plan Commitments and Time Frame

Below is an example of how these three Essential Elements of the FY 18-22 Strategic Plan relate to FIFRA. As new Strategic Plans become effective, the Goals, Objectives, Commitments, and FIFRA’s linkage to them, are likely to change:

1. Strategic Plan Goal: all FIFRA cooperative agreement work plans are linked to two Agency goals in the Agency's FY 18-22 Strategic Plan. OCSPP program work is linked to Goal 1: A Cleaner, Healthier Environment, and OECA enforcement work is linked to Goal 2: More Effective Partnerships.
2. Strategic Plan Objective: OCSPP program work is linked to Goal 1, Objective 1.4: Ensure Safety of Chemicals in the Marketplace. OECA enforcement work is linked to Goal 2, Objective 2.1: Enhance Shared Accountability.
3. Work Plan Commitments and Timeframe: all cooperative agreements must include the commitments for each work plan component and a timeframe for their accomplishment within the project period.

This policy supplements or reinforces, but in no way supersedes, existing requirements in 2 CFR Part 200, 2 CFR Part 1500, and 40 CFR Part 35 Subparts A and B.

In addition, the work plan's negotiated milestones should include an agreed upon spending strategy consistent with the project period. In performing baseline and advanced monitoring, project officers should verify the outlay strategy is being followed for each budget year to comply with EPA's Grants Policy Issuance GPI 12-6: Timely Obligation, Award and Expenditure of EPA Grant Funds. The FIFRA Grant Database is compliant with both these directives.

As indicated above, the cooperative agreement must include a project period and evaluation plan that is mutually acceptable to EPA and applicants. At a minimum, the plan should include a schedule for conducting timely end-of-year evaluations (EOY reports), preferably on-site (if the regional office's budget allows). While mid-year evaluation reports are not required by OCSPP or OECA, informal mid-year discussions are encouraged to ensure work plan commitments are on track. This is an opportunity for the project officers and grantees to assess progress and make any needed mid-year adjustments.

The applicant and the project officer should work together to ensure activities in the work plan support national, state, tribal, and local priorities, as appropriate, and are consistent with applicable federal statutes, regulations, circulars, and Executive Orders, as well as EPA delegations, approvals, or authorizations. The Agency recognizes that activities may change as national and local conditions and priorities are updated. Therefore, an updated work plan must be submitted annually for review and approval. This should be done with the application if applying for funding annually.

The work plan is negotiated between the applicant and project officer. Please note that if an applicant or project officer proposes a work plan that differs significantly from the program areas, goals, activities, or performance measures in this Guidance, the region must consult with the appropriate National Program Manager (OCSPP and/or OECA) before agreeing to the work plan. The components of the work plan are specified in the FIFRA Grant Database.

E. Accountability of State/Tribal Cooperative Agreement Funds

According to 2 CFR Part 200, applicants must expend and account for funds awarded in accordance with state/territory/tribal laws and procedures, as appropriate. Fiscal control and accounting procedures must be sufficient to:

- 1) Track the allocation of matching funds separately for the certification and training program;

- 2) Track the expenditures for each cost category established in the original agreement;
- 3) Permit preparation of Federal Financial Status Reports required by the regulations; and
- 4) Permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

The expenditures under the agreement must follow cost categories (i.e., budget line item or program elements) established in the original agreement. When needed, 2 CFR Part 200 allows recipients and sub-recipients to re-budget within the approved direct cost budget. Certain types of changes require prior approval [see 2 USC 200.308]. The regional project officer can provide more information on re-budgeting requests.

Applicants must maintain accounting records for funds awarded for each component under their agreement including receipts, matching contributions, and expenditures in accordance with all applicable EPA regulations and generally accepted accounting principles.

For continuing programs, a filing system should be in place to maintain accounting information at the start of the project period. New applicants must submit a description of the accounting filing system with their cooperative agreement application and the system should be evident within three months of the start of the project period.

F. Quality Management Plans (QMPs) and Quality Assurance Project Plans (QAPPs)

All cooperative agreements involving environmental data collection must follow the Quality Assurance terms and conditions of the award. EPA grantees must comply with either the EPA quality assurance policy, EPA Order No. CIO-2105.0, which is summarized at <https://www.epa.gov/quality/policies-and-procedures-about-quality-assurance-epa-organizations>, or the American National Standard ASQ/ANSI E4-2014, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs." EPA requires two forms of documentation to be in place:

1. Documentation of the organization's quality system usually called a Quality Management Plan (EPA Quality Management Tools), R-2, or EPA Requirements for Quality Management Plans defines EPA specifications.
2. Documentation of the application of quality assurance and quality control activities to a project-specific effort (usually called a Quality Assurance Project Plan), or R-5, or EPA Requirements for Quality Assurance Project Plans defines EPA specifications.

Usually states, tribes and territories document the quality system once using a Quality Management Plan (QMP) with scheduled updates, and then document the quality assurance activities for each project using a Quality Assurance Project Plan (QAPP). Use of existing quality system documentation, such as standard operating procedures (SOPs) or test methods that may be as a result of a company or agency's ISO accreditation can be used in substitute for some parts of EPA required Quality Assurance (QA) documentation but does not replace it completely.

At the region's discretion, these two documents may be combined into a single document with permission from the EPA Regional QA Manager of the organization sponsoring the work. The combined document must address all elements defined by the EPA Regional QA Manager and will include documentation of both the organization's quality system and the application of this system to the work performed under the grant or contract.

AGENCY DOCUMENTATION:

The QMP for the EPA organization providing the financial assistance must define the process to be used to ensure that the assistance agreement adequately addresses Quality Systems issues. In addition, the QMP must describe how the EPA organization will conduct oversight of the assistance agreement to assure its implementation as documented. The QMPs and associated QAPPs are submitted to the regional Quality Assurance offices for review and approval; then reviewed and approved by the FIFRA project officers.

G. Laboratory Funding and Competency

Each year OECA provides funding to a portion of state lead agencies to fund state laboratories based on an established rotation. These funds may be used to support both pesticide monitoring and enforcement activities of the lab beyond the purchasing of equipment. The funds cannot be used by other parts of a state's pesticide enforcement program and must comply with all applicable grant regulations and policies. For more information on lab funding, see Appendix 1: Supplemental Information for Program Areas, A. Basic Pesticide Program, Section v. Laboratory Support.

"Laboratory Competency" is a requirement under Agency Policy Directive Number FEM-2012-02, updated December 21, 2016, which requires organizations performing activities involving the use or generation of environmental data as part of an EPA assistance agreements to demonstrate competency in the field(s) of expertise. This policy applies to competitive and non-competitive assistance agreements expected to exceed a total maximum value of \$200,000 in federal funding. Demonstration of lab competency may include but is not limited to:

- Ongoing participation by the organization in proficiency testing or round robin programs conducted by external organizations; and
- Other pertinent documentation that demonstrates competency (e.g., appropriate ISO certification, and past performance to similar statement of work).

It should be noted that whomever is paying for the data specifies the accepted demonstration of competency. For example, a region paying for the laboratory to do FIFRA residue samples for enforcement gets to specify what certification they will accept, if they want proficiency samples, whether or not the QMP and QAPP are acceptable, and what quality assurance and quality control is required. Additional information can be found at: https://www.epa.gov/sites/production/files/2017-05/documents/policy_to_assure_the_competency_of_organizations.pdf

H. Debarment and Suspension Certification

EPA's management authority includes an effective administrative tool to address waste, fraud, abuse, poor performance, environmental noncompliance or other misconduct: The authority is to suspend and or debar individuals and entities.

Suspension and debarment actions prevent companies and individuals from participating in government contracts, subcontracts, loans, grants and other assistance programs. The effect of suspension and debarment by a federal agency is government wide (see [2 CFR Part 180](#) and [2 CFR Part 1532](#)). Suspension and debarment actions protect the government from doing business with individuals/companies/recipients who pose a business risk to the government. See EPA's website for more information: <https://www.epa.gov/grants/suspension-and-debarment-program>

VI. APPLICATION REVIEW PROCEDURES

Once applications are submitted via the Grants.gov website, www.grants.gov, regions will receive these applications and review them to ensure all of the required elements have been addressed. For additional information, see Appendix 7, EPA Pesticide State/Tribal Cooperative Agreement Application Review Procedures.

VII. ALLOTMENT OF STATE/TRIBAL COOPERATIVE AGREEMENT FUNDS

Both program and enforcement allotments for states and tribes are based on national formulas for many of the program areas. Allotments are made annually and distributed to the regions. Actual final state allocations awarded by the EPA regions may vary from those calculated by the national formulas due to the fact that regions are authorized to shift funds between grantees and across non-enforcement pesticide programs to address local conditions, priorities and special projects not considered in the national formulas. The only exception to this is funding allocated for applicator certification programs. The reasons for varying from the allocations determined by national formulas must be documented by the regions. For more information about the program and enforcement allotment formulas, contact your region, OCSPP or OECA.

VIII. REPORTING AND ENFORCEMENT MEASURES

A. Reporting

Recipients of cooperative agreement funding must submit reports as required by the EPA assistance agreement regulations or as negotiated with the regions. The FIFRA Grant Database must be used for grantee reporting for all FIFRA cooperative agreements. The FIFRA Grant Database includes the 5700-33H Forms, and the Performance Measures form. For assistance with the 5700 forms, see appendices 8, 9 and 10. Grantees will also enter data into the Certification Plan and Reporting Database (CPARD) for worker safety. Information entered into CPARD does not need to be repeated in the FIFRA Grant Database.

Grantees will use the FIFRA Grant Database to submit their end-of-year reports and inspection forms to the regions annually, within 90 days after the grant project period ends. Once project officers receive the end-of-year reports contained in the FIFRA Grant Database, they will review the reports and discuss their findings during the end-of-year meeting with grantees. The project officers will then finalize their end-of-year

reports, send them to the grantees to check for accuracy, and then submit the final version to the FIFRA Grant Database by March 30th each year.

Table 1, Summary of Reports and Annual Due Dates

TEMPLATE REPORTING FORMS & DATABASES	GRANTEE SUBMISSION DATE TO REGION	REGION SUBMISSION DATE TO FIFRA GRANT DATABASE ¹	GUIDANCE IN APPENDIX
Regional End-of-year Cooperative Agreement Evaluation Reports ^{1,2,3}	Annually, as negotiated with the region; within 120 days after project period ends.	March 30 th	2
Performance Measures Form	Annually, as negotiated with the region; within 120 days after project period ends.	March 30 th	N/A
EPA 5700-33H Form ²	Annually, as negotiated with the region; within 120 days after project period ends.	March 30 th	8
EPA 5700-33H WPS ²	Annually, as negotiated with the region; within 120 days after project period ends.	March 30 th	9
EPA 5700-33H ² Container/Containment	Annually, as negotiated with the region; within 120 days after project period ends.	March 30 th	10
Certification Plan and Reporting Database (CPARD)	December 31 st	N/A	N/A

¹Regions should submit a copy of their end-of-year reports to the grantees at the same time.

² Information contained in these forms must be provided through the FIFRA Grant Database.

³ Extensions for submitting regional end-of-year cooperative agreement reports can be requested if needed.

Information contained in these reports is used to ensure accountability of resources, verify that cooperative agreements are consistent with this FIFRA Cooperative Agreement Guidance, ensure support of the National Pesticide Program goals and performance measures, and provides feedback from the field on the success of regulatory requirements. In addition, OCSPP and OECA review end-of-year reports annually to identify pesticide issues and trends.

1. High -Level Pesticide Incidents and FIFRA Referrals

Recipients are required to report to the regions “high level pesticide incidents” involving serious adverse effects to human health or the environment which may require close cooperation with EPA or other agencies to conduct an investigation or bring the incident under control or to a resolution. Reportable high-level pesticides incidents may occur with pesticides, pesticidal devices and treated articles. These high-level incidents may be in addition to section 26 and 27 referrals. See Table 2, Comparison Chart of FIFRA Referrals/Reports below. The region will then forward this information to the Branch Chief of the Intergovernmental and Communities Relations Branch in the Office of Program Support in OCSPP, the Branch Chief of the Pesticides, Waste, and Toxics Branch in the Office of Compliance in OECA, and the Branch Chief of the Pesticides and Tanks Enforcement Branch in the Office of Civil Enforcement in OECA. See Appendix 11, Reporting and Coordination of High-Level Pesticide Incidents, for more information.

Information on high-level incidents is useful to OPP to determine if there are patterns of incidents requiring new risk mitigation, such as label changes or additional regulation. For the FY 22-25 grant period, investigations involving pollinators are considered high level and should be routinely reported because of the information they may provide as to the causes of pollinator decline. All known or suspected pesticide incidents involving pollinators, should be reported to OPP at: beekill@epa.gov with a copy of the reported incident to the regional project officer.

Table 2, Comparison Chart of FIFRA Referrals/Reports

	INFORMAL REFERRALS	FIFRA SECTION 27 REFERRALS	HIGH LEVEL INCIDENTS/ REPORTS
What are they?	Referrals containing information/tip of a possible violation of federal or state/tribal laws to a FIFRA grantee that may or may not result in the grantee conducting an inspection. An informal referral may lead to a Section 27 referral.	In accordance with FIFRA Section 27, EPA in consultation with each state identifies, in writing, criteria for formal referrals to the state known as “significant incidents.” The negotiated agreement contains criteria for the selection of significant pesticide use cases. The criteria can vary from state to state. A Section 27 referral may also be a high-level incident report.	FIFRA grantees are required to report to the regions “high level pesticide incidents” involving serious adverse effects to human health or the environment which may require close cooperation with EPA or other agencies. Regions then report to OCSPP and OECA, who reach out to other offices/agencies as appropriate. A high-level incident is not necessarily a Section 27 referral.
Where defined?	1983 Final Interpretive Rule (FR Vol. 48, No.3, 1/5/1983, pages 407-411)	FIFRA Section 27; 1983 Final Interpretive Rule at https://www.epa.gov/sites/production/files/2014-01/documents/1983frnotice.pdf	Appendix 11 of the FY22-25 FIFRA Cooperative Agreement Guidance
Intent of the referral?	Provide information/tip to a grantee concerning a possible FIFRA violation.	Ensure an appropriate investigation is conducted and enforcement, if necessary, is taken by a state concerning a “significant” pesticide misuse.	Communicate information to all EPA offices who need to know about high level FIFRA incidents and ensure appropriate follow-up/coordination within EPA and other agencies.
Are they tracked?	Tracking of informal referrals is determined by the region on a case-by-case basis.	Section 27 referrals are formally tracked by the regional offices.	High level incident reports are not formally tracked unless they qualify as Section 27 referrals.

B. Enforcement Measures

Performance measures are a vital part of running a program. Measures allow a program to determine and analyze what they do well; if resources are used as planned; inform future investments; inform legislators and the public on the impact and value of the program and provide insight on how to make the pesticide program more effective. The Pesticide Enforcement Measures Form are included in the FIFRA Grant Database and must be completed by grantees.

APPENDIX 1:
SUPPLEMENTAL INFORMATION FOR PROGRAM
AREAS

Table of Contents

REQUIRED PROGRAM AREAS 25

- A. Basic Pesticide Program 25
- B. Pesticide Worker Safety: WPS 29
- C. Pesticide Worker Safety: Pesticide Applicator Certification 33
- D. Pesticides in Water 36
- E. Product Integrity 41
- F. Border Compliance 42

GRANTEE PROGRAM AREA PICK-LIST 43

- G. Fumigants and Fumigation 43
- H. Endangered Species Protection 43
- I. Bed Bugs 46
- J. Pollinator Protection 47
- K. Integrated Pest Management (IPM) 48
- L. Spray Drift 50
- M. State and Tribal Coordination and Communication 51
- N. Emerging Public Health Pesticide Issues 53

SUPPLEMENTAL INFORMATION FOR PROGRAM AREAS

This document provides additional information on required and grantee pick-list program areas to supplement the information listed in Sections II and III of the FIFRA Cooperative Agreement Guidance. The goal of this appendix is to provide background information that clarifies the expectation for each program area.

GENERAL INFORMATION

This appendix has two sections “Required Program Areas” and “Grantee Program Area Pick-List.” The program areas in these sections are listed in the order they appear in the Guidance and contain background information that may be useful. The goal, program description and enforcement considerations are listed for each program area.

REPORTING REQUIREMENTS AND PERFORMANCE MEASURES

Recipients are required to report annually on all required program areas, and those program areas selected from the Grantee Program Areas Pick-List. The FIFRA Grant Database should be used for grantee reporting under the FIFRA cooperative agreements. In some cases, there are additional reporting requirements noted in the program area descriptions below. Some of these program areas may also require specific information for performance measures associated with that program.

REQUIRED PROGRAM AREAS

There are six required program areas described below which correspond with Section II of the FY 2022-2025 FIFRA Cooperative Agreement Guidance on page 5.

A. BASIC PESTICIDE PROGRAM

Goal

The Basic Pesticide Program and the activities described in this section of the Guidance supports the Agency’s Strategic Plan Goals for a Cleaner, Healthier Environment, and More Effective Partnerships.

Program Description

The baseline activities mandated for the “Basic Pesticide Program” are those activities that are considered regular, routine work which is unlikely to change much from year to year. However, these activities are also those that EPA believes are necessary to maintain a viable and credible pesticide regulatory and enforcement field program, to achieve environmental results and support the National Pesticide Program’s performance measures.

All grantees are expected to invest some level of effort to support Basic Pesticide Program activities and these activities must appear in grantee work plans. The level of effort and resources devoted to the basic program activities may be negotiated between the grantee and EPA regional offices.

Enforcement Considerations

The pesticide compliance and enforcement activities grantees perform help monitor, identify, correct, and deter noncompliance and reduce chemical risks. Compliance monitoring activities help support other Agency goals including reducing chemical risks and protecting underserved and vulnerable populations. Grantee activities should be consistent with the national Compliance Monitoring Strategy. For more information on federal credentialing for state and tribal inspectors see <https://www.epa.gov/compliance/guidance-issuing-federal-epa-inspector-credentials-authorize-employees-statetribal>.

i. Compliance Assistance

Compliance assistance should not be performed in lieu of enforcement. Potential violations should be thoroughly documented. The region and grantee should agree on the compliance assistance activities to be conducted where appropriate. These activities may include:

- Provide outreach materials to improve compliance, for example, in areas where regulatory requirements are new or violations are occurring due to a lack of understanding;
- Conduct seminars or public meetings with the regulated industry to explain requirements or answer questions;
- Provide remedial training for violators; and
- Develop programs which reflect the EPA's policies on self-audits.

When new EPA policies are issued, grantees are encouraged to reflect such policies within their programs as warranted.

Grantees are encouraged to use the National Agriculture Center (Ag Center) services to support compliance assistance. The Ag Center was developed by OECA to help producers of agricultural commodities comply with all environmental requirements, prevent pollution before it occurs, and reduce costs associated with compliance by identifying flexible, common-sense ways to achieve compliance. The Ag Center provides information to state regulatory programs to assist them in meeting the compliance assistance needs of their regulated agricultural communities.

The Ag Center relies on existing distribution mechanisms, such as USDA-Extension, state pesticide regulatory agencies, and crop consultants to communicate information to the agricultural community. Grantees are encouraged to provide feedback to the Ag Center on its services to ensure their needs are being met. For more information, visit the Ag Center website at: <https://www.epa.gov/agriculture>

ii. Inspections

The following provides information and descriptions of different types of inspections as well as different places to inspect:

Producer Establishment Inspections (PEIs): These inspections should be targeted with the intention of conducting inspections at all PEIs over an extended period of time on a routine cycle. Emphasis on PEIs focuses resources at the source of the product and therefore, ensures product label changes have been incorporated, products are registered, product labels and labeling are in conformance with their registrations, and ensures the integrity of the products. Grantees should request that the regions provide name, address and products reported as produced at that establishment for each PEI prior to an inspection. Because pesticide production data is generally treated as confidential business information (CBI), grantees should follow the "Procedures for CBI Requested by a State or Tribal Inspector" set forth in Chapter 1 of the FIFRA Inspection Manual. State and tribal inspectors may request that production information be sent to the regional office for verification. If the establishment reports unregistered pesticides being produced for export the inspector should document Foreign Purchaser Acknowledgement Statements (FPAS) for the unregistered products. **PEI inspections conducted by states or tribes must be done using federal EPA credentials and EPA forms.**

Contract Manufacturers: Contract manufacturing is a common practice within the industry. Any person producing a pesticide under contract to the registrant, whether as a toll manufacturer, supplemental registrant, or refilling establishment is an agent of the registrant and as such, is held to the standards imposed on the registrant at the time of registration. Contract manufacturing is typically carried out through contractual agreements but often without rigorous oversight by the registrant. This lack of oversight can lead to adulterated, misbranded or even unregistered products being sold or distributed. The resulting pesticide products may pose unreasonable risk to health or the environment. Inspections targeted at contract manufacturing facilities will help ensure that all pesticide production at such facilities is appropriately regulated.

Dealer/Distributor/Retailer (Marketplace) Inspections: These inspections should be conducted on a routine basis to ensure product packaging and labeling compliance as well as compliance with container/containment regulations, custom blending policies, and requirements for the sale of restricted use pesticides. In addition, potential violations found in advertisements, including e-commerce ads, as well as tips/complaints, may require investigation and enforcement action.

E-Commerce: EPA developed e-commerce compliance/enforcement strategy documents. Contact the regional office for more information on these documents. They ensure that pesticides and pesticide services are marketed in accordance with state and federal laws and regulations. The goal is to ensure that pesticides that are distributed and sold in e-commerce are treated the same as pesticides marketed in the more traditional manner. Grantees should include inspections of websites selling pesticides and pesticidal products as part of their core marketplace inspections.

Misuse: Most states and territories with cooperative agreements have primary responsibility under FIFRA for pesticide use violations (primacy) pursuant to FIFRA Section 26. Tribes are not eligible for primacy. However, tribes with pesticide enforcement cooperative agreements with the EPA will be accorded the same responsibility to investigate and take enforcement action in instances of pesticide use violations as states have under FIFRA's primacy provisions, if they have tribal laws and regulations governing use violations on tribal lands. Investigations conducted by tribal inspectors using the EPA credentials must be turned over to the regional office for enforcement action. States should continue to address pesticide use violations, particularly as it relates to WPS, food safety, structural pest control, and drift.

Imports: When requested by a region, grantees should conduct inspections for imported pesticides with special emphasis on determining if a pesticide is registered in the United States, and the uses on the label are

consistent with the FIFRA approved label. These may include shipments detained at ports of entry or foreign trade zones that the region has determined through Notices of Arrival or other information may be in violation of FIFRA. **Import inspections conducted by states or tribes must be done using federal EPA credentials and EPA forms.**

Certified Applicator Inspections: These inspections monitor the applicators compliance with certification requirements and whether required records are being maintained. Additionally, to the extent possible through a record review, the inspector should determine whether the applicator is applying pesticides only in those areas for which certification has been issued and whether the records indicate that all applications have been made in compliance with all applicable laws and regulations.

Antimicrobial Pesticides: Antimicrobials are used in homes, hospitals, cafeterias, restaurants, and many other institutions. While all pesticide products are required to work as claimed by the manufacturer, the EPA is particularly concerned about the effectiveness of antimicrobial pesticides because their efficacy is not easily observable, and because of the public health implications. Grantees may be asked to collect samples as needed to ensure efficacy of these products.

Cancellations, Suspensions, Other Major Regulatory Actions, Recalls, and National High-Risk Initiatives: Grantees are required to implement cancellation or suspension orders, National Compliance Strategies for canceled or suspended pesticide products and other major regulatory actions. Grantees will conduct inspections and other compliance monitoring activities to assure compliance with major pesticide regulatory actions within the time frames specified in the nationally issued Compliance Monitoring Strategies. Inspections and other compliance monitoring activities may address: (a) major cancellation actions; (b) all suspensions under FIFRA Section 6; (c) FIFRA Section 3(c)(2)(B) suspensions; and (d) other major pesticide regulatory actions (e.g., label improvement programs, etc.).

EPA may require registrants and distributors to recall pesticide products which have been both suspended and canceled. Once these recall requirements are effective, grantees will need to inspect for compliance and enforce where applicable. This applies only to pesticides suspended under Section 6. Once these recall requirements are effective, the grantees and regional offices should discuss the relative priority of the different activities being conducted under their enforcement cooperative agreement and renegotiate work activities as appropriate. Recommended procedures for recalls and disposal are found in 40 CFR Part 165. Violations of EPA recalls should be referred to the appropriate region.

Grantees may also be requested to participate in national initiatives to address specific risks. OECA will work with regions and grantees to develop and implement such initiatives. Because the workload in this area cannot be anticipated in advance, it is understood that grantees may renegotiate the outputs in the cooperative agreement upon receipt of requests to conduct activities in the above areas.

iii. Monitoring Section 18 Emergency Exemptions, Section 24(c) Special Local Need Registrations, and Section 5 Experimental Use Permits

Both federal and state agencies may be exempted from any provision under FIFRA by the Administrator if an emergency condition exists. Each work plan should reflect how the grantee plans to monitor and follow-up on *Section 18 Emergency Exemptions* to ensure compliance with the terms and conditions of Section 18s within the state, especially suspected misuse violations. The number of Section 18 inspections should be negotiated between the region and the grantee.

Section 24(c) Special Local Needs allows the state to register additional uses of currently registered pesticides in their state. If EPA allows the state approved 24(c) to go forward, the state shall monitor the sale, distribution and use of the particular pesticide in accordance with the 24(c) requirements. Each cooperative agreement work plan should reflect how the state plans to monitor and follow-up on Section 24(c) registrations to ensure compliance with the terms and conditions of Section 24(c)s within the state, especially suspected misuse violations. The number of Section 24(c) inspections should be negotiated between the region and the grantee.

Section 5 allows any person to apply for an Experimental Use Permit (EUP) to accumulate information necessary to register a pesticide. If approved, the EUP contains terms and conditions for the distribution and use of the experimental pesticide. Each work plan should reflect how the grantee plans to monitor and follow-up on EUPs to ensure compliance with the terms and conditions of the EUP, especially suspected misuse violations. The number of EUP inspections should be negotiated between the region and the grantee.

iv. Section 27 Referrals

Section 27 of FIFRA requires EPA to refer to the states any information the Agency receives indicating a significant violation of pesticide use laws. In accordance with the Final Interpretive Rule (<https://www.epa.gov/sites/production/files/2014-01/documents/1983frnotice.pdf>) governing FIFRA Sections 26 and 27, EPA in consultation with each state should identify, in writing, criteria for formal referral to the state. These criteria should consider those pesticide activities in the state that present the greatest potential for harm to health and the environment. The negotiated written agreement between the state and the region should contain the criteria for the selection of significant pesticide use cases.

All pesticide use cases identified as “significant” will be referred to the state by EPA in writing and will be formally tracked as set forth in the OECA’s Final Interpretive Rule. All other cases will be referred to the state and will not be formally tracked under Section 27.

v. Laboratory Support

Each year, EPA provides a small grant on a rotating basis to state labs that support pesticide monitoring and enforcement activities. Traditionally, the funds have been used to support the purchase of lab equipment. The funds may now be used to support the pesticide monitoring and enforcement activities of the lab beyond the purchasing of equipment. The funds cannot be used by other parts of a state’s pesticide enforcement program and must comply with all appropriate grant regulations and policies.

B. PESTICIDE WORKER SAFETY: WORKER PROTECTION STANDARD

Goal

The goal of this program area is to prevent or reduce occupational pesticide exposures, incidents and illnesses from pesticide use, especially uses that pose high risks or high exposures to workers and handlers. Ensuring effective implementation of the Agency’s pesticide worker safety program remains a high priority for EPA and is important to the Agency’s overall strategy to ensure chemical safety, prevent pollution, advance environmental justice and protect children’s health. The principal means for accomplishing the Agency’s worker safety program goals for agricultural workers is through implementation of the Worker Protection Standard (WPS) regulations (40 CFR Part 170). Additional information of the pesticide worker

safety program can be found at <https://www.epa.gov/pesticide-worker-safety/agricultural-worker-protection-standard-wps>.

Program Description

The Agricultural Worker Protection Standard (WPS, 40 CFR Part 170) program priority area is also a key part of OCSPP's overall work to support the Agency's Environmental Justice efforts. In effect since 1992, the WPS regulations are intended to protect agricultural workers and pesticide handlers on farms, forests, nurseries, and enclosed space production facilities from occupational exposure to pesticides. Agricultural workers may be exposed to pesticide residues on plants. Pesticide handlers may be exposed to pesticides when mixing, loading or applying pesticides. More than 2 million farmworkers nationwide receive protections under this regulation. The WPS program is critical to assuring that agricultural farmworkers, which represent some of the most economically disadvantaged people in the U.S., are protected from occupational pesticide hazards. Grantee activities, such as outreach and education efforts to this environmental justice community, are important to help protect this vulnerable population from occupational pesticide hazards and ensure their safety in the workplace.

i. Part 170 Worker Protection Standard (WPS) Rule Requirements and Changes

On November 2, 2015, EPA published final rule revisions to the WPS that address pesticide safety training, notification, hazard communication, use of personal protective equipment (PPE), and decontamination supplies. These revisions are intended to reduce the number and severity of pesticide exposure incidents and prevent unreasonable adverse effects among agricultural workers, pesticide handlers, and minority and low-income populations including farmworker children, farmworker families and the general population.

The principal Pesticide Worker Safety Program activities for the WPS program area for State and Tribal grantees in FY 2022-2025 will be to continue implementing the November 2, 2015, rule revisions to the Part 170 WPS rule, and carry out WPS program implementation activities in accordance with this and other applicable EPA guidance (e.g., WPS Inspection Manual, FIFRA Project Officer Manual, WPS Interpretive Policy guidance, Region- and program-specific WPS guidance, etc.). Specific activities include:

- Conduct WPS-related outreach, education and technical assistance on the revised rule's requirements to the regulated and impacted community:
 - a. Provide outreach on the key requirements of the WPS rule to the regulated and protected communities, and key stakeholder groups in the state or Indian country (e.g., agricultural employers, commercial pesticide handler employers, farmworkers, agricultural organizations, crop/commodity groups, farmworker advocacy groups, migrant health care providers, regulatory partners, key NGO stakeholders, and other affected agencies and/or organizations). As applicable in the state or jurisdiction, states should focus outreach efforts on ensuring understanding of the WPS, Application Exclusion Zone (AEZ) and continue outreach on the respirator-related requirements and other priority areas that may be identified by EPA in other applicable guidance.
 - b. Disseminate national and state/tribal outreach and training materials to growers and stakeholders via compliance assistance visits, attendance at grower meetings, etc.

- c. Leverage State Land Grant Universities/University Extension/Tribal Education agricultural stakeholder networks and online resources to reach growers, ag producers.
- d. Provide compliance assistance to WPS-affected growers and employers.
- e. Update state/tribal webpages and social media with relevant information and links to key WPS materials.
- Support WPS worker & handler training activities:
 - a. Assist in the development and distribution of EPA approved WPS training materials for workers and handlers to ensure that employers and trainers can comply with new WPS training requirements.
 - b. Facilitate adoption of EPA-approved WPS Train-the-Trainer (TTT) programs to improve the quality and effectiveness of WPS trainers/training.
 - c. Update existing state/tribal-level training or educational materials as applicable and/or /appropriate.
- Ensure mechanisms and procedures are in place to enable coordination and follow-up on reports of occupational pesticide exposure, incidents or illnesses that may be related to pesticide use/misuse or WPS violations.
- Attend and participate in any WPS training efforts initiated by HQ or EPA Regions, and /or other WPS trainings taking place in the state or Indian country.

ii. Supplemental Activities to Support WPS Implementation

As resources allow, grantees are encouraged to undertake work on one or more of the supplemental activities listed below. The Agency believes these optional activities will enhance program implementation and lead to better overall protection for pesticide workers. Grantees with high populations of farmworkers or unique pesticide worker safety issues should consider a higher level of activity in this program area.

- Establish EPA-approved WPS Train-the-Trainer (TTT) Programs. The EPA encourages grantees to support the establishment of state/tribal WPS TTT programs that will improve the quality of WPS trainers and WPS training programs. In association with a cooperative agreement partner, EPA is supporting the development of national WPS TTT materials and programs and encourages grantees to promote and use these materials to establish WPS TTT programs in the state or Indian country and support existing WPS TTT programs.
- Support programs and provide resources to facilitate employer compliance with the new WPS requirements related to respirator use (e.g., medical evaluation, fit-testing and respirator training). This may include developing partnerships with medical providers, regulatory partners, grower and commodity groups, and/or NGOs to support understanding and adoption of the requirements as well as providing resources and mechanisms for fulfilling the requirements.
- Work with Community-Based WPS Training Providers. Grantees should work with community-based training providers, such as AFOP/Americorp and other groups, to assure training providers are meeting WPS requirements and any applicable grantee requirements. Training providers should also be

appropriately linked with members of the agricultural community so their services can be utilized more effectively.

- Develop Cooperative Relationships with Farmworker Service Organizations. Grantees should identify groups that provide services to farmworkers to establish cooperative relationships and better communications and linkages. Establishing such relationships could result in more productive communication networks that will support the objectives of the program and promote better coordination on occupational pesticide incidents and/or WPS complaints.
- Support the National Strategy for Outreach to Health Care Providers. The [National Strategy for Outreach to Health Care Providers](#) is an important component of the Agency's pesticide worker safety program. It is the cornerstone of the EPA's effort to improve recognition and management of pesticide poisonings by health care providers, and is key to facilitating better communications regarding pesticide incidents.

Enforcement Considerations

EPA's goal for the Worker Protection requirements is to help create a safer work environment in which agricultural workers, their employers, and pesticide handlers can perform tasks without concern about pesticide exposure during and after an application. For this reason, grantees must conduct agricultural use inspections focused on WPS compliance. Enforcements activities include:

- When reporting WPS inspections on the WPS 5700 Form, states should follow the criteria set forth in Appendix 9, Guidelines for WPS EPA Form 5700-33H in the FIFRA Grant Database. State enforcement actions should be reported on the WPS 5700 Form in the FIFRA Grant Database with a brief narrative description about each noteworthy civil or criminal penalty enforcement action resulting from a WPS inspection. The EPA believes that it is important to communicate to the public the impact of the WPS compliance and enforcement program to protect pesticide workers beyond numerical targets.
- Routine Tier I WPS use inspections should be conducted to ensure coverage of agricultural establishments regulated under the WPS. Grantees should focus their worker protection compliance monitoring activities on the types of establishments where high-risk pesticides are used or high exposure scenarios are encountered (i.e., areas that have the highest likelihood of pesticide worker and handler risk). Examples include: (1) timing inspections during periods of pesticide application to ensure compliance with key worker provisions; (2) visiting sites with labor-intensive crops; (3) visiting employers with large numbers of workers; (4) timing inspections during the growing season to coincide with high-risk labor practices and worker exposure scenarios; and (5) timing inspections during times when high-risk pesticides would be applied at a specific time of year as a matter of general crop practice.
- Particular attention should be given to follow-up inspections at agricultural establishments where prior enforcement actions for WPS violations were taken. Follow up inspections should occur in a timely manner as the grantee deems appropriate.
- States should provide information on the number of other enforcement actions that may result from WPS inspections such as stop sale/use orders and warning letters in each of the reporting categories.

C. PESTICIDE WORKER SAFETY: PESTICIDE APPLICATOR CERTIFICATION

Goal

The goal of this program area is to prevent or reduce occupational pesticide exposures, incidents and illnesses from pesticides, especially risks to pesticide applicators as defined in the Certification of Pesticides Applicator rule. Ensuring effective implementation of the Agency's pesticide worker safety program remains a high priority for EPA and is important to the Agency's overall strategy to ensure chemical safety, prevent pollution, advance environmental justice and protect children's health. The principal means for accomplishing the Agency's worker safety program goals is through implementation of the Pesticide Applicator Certification regulations (40 CFR Parts 171). Additional information of the pesticide worker safety program can be found at: <https://www.epa.gov/pesticide-worker-safety/revised-certification-standards-pesticide-applicators>.

Program Description

Implementation of the Certification of Pesticide Applicators rule (40 CFR Part 171) and corresponding certification and training (CPA Rule) program is also a key part of OCSPP's overall work to ensure chemical safety, prevent pollution, advance environmental justice and protect children's health. The CPA Rule program is critical to ensuring that persons using or supervising the use of restricted-use pesticides (RUPs) are competent to use these products without causing unreasonable adverse effects to human health or the environment and to provide a mechanism by which states, tribes, and federal agencies can administer their own programs to certify applicators of RUPs as competent. The CPA Rule program also plays a vital role in ensuring that important pesticide tools remain available to pest control officials and users to address critical pest management needs.

i. Part 171 Pesticide Applicator Certification Rule Requirements and Changes

On January 4, 2017, EPA published final rule revisions to the Certification of Pesticide Applicators rule (40 CFR Part 171) that address private applicator competency, standards for recertification programs, standards for supervision, competency requirements for noncertified applicators applying RUPs under the supervision of a certified applicator, minimum age for certified and noncertified applicators, application-method specific categories, requirements for state, tribal and federal agency certification plans, and implementation requirements. These revisions are intended to reduce the number and severity of pesticide exposure incidents associated with the use of RUPs, and prevent unreasonable adverse effects among certified applicators, noncertified persons applying under the supervision of a certified applicator, and vulnerable groups, including minority and low-income populations, and the general population.

The principal Pesticide Worker Safety Program activities for the CPA Rule program area for state and tribal grantees for the FY 2022-2025 grant cycle will be to implement the January 4, 2017, rule revisions to the Part 171 rule. This will be done through implementation of the EPA-approved Certification Plan and program activities in accordance with the tribal or state plans and other applicable EPA guidance (e.g., FIFRA Inspection Guidance, National Part 171 Program guidance, Region-specific CPA Rule guidance, etc.). Specific activities include:

- Meet state and tribal certification plan reporting requirements for certification plan maintenance and annual reporting using the Certification Plan and Reporting Database (CPARD). Grantees must ensure

their State/Tribal Certification Plans are entered, submitted, maintained, and updated within the Certification Plan and Reporting Database (CPARD) in accordance with the requirements in 40 CFR Part 171. Grantees should submit revised certification plans through CPARD in accordance with program policy and guidance, and update their plans in CPARD annually, making any necessary updates and all pertinent information to reflect any changes to their Certification programs and plans made during the year. Additionally, grantees must use the CPARD system for submitting their required annual Certification Program accomplishment reporting information. Grantees should work with their region if any technical assistance is needed for using CPARD if any technical assistance is needed for using CPARD.

- Monitor applicator training programs to ensure quality and that training programs comply with revised rule requirements and applicable standards/guidance. Grantees will monitor initial certification and recertification training programs, as well as training programs for noncertified applicators applying RUPs under the supervision of a certified applicator (as applicable and appropriate), to assure the quality and consistency of training programs. Grantees should participate in applicator training programs as resources permit. Grantees should work with training providers to ensure training programs meet the revised rule's requirements and are providing the information required to ensure applicator knowledge and competency.
- Grantees must ensure pesticide applicator certification programs are being implemented and maintained in accordance with their EPA approved certification plans. Grantees should continue implementing pesticide applicator certification programs in accordance with current EPA-approved certification plans and Part 171 requirements until revised, EPA-approved certification plans complying with the new revised Part 171 rule requirements are in place.
- Complete any necessary regulatory, legislative and/or certification program changes necessary to enable final EPA approval of revised state certification plans and implement EPA approved certification plans in accordance with schedules and timelines contained in the plan and other applicable approval documents, and other applicable EPA guidance.
- Provide outreach, education and technical assistance to the regulated and affected community (e.g., certified applicators, RUP dealers, non-certified applicators applying RUPs under the supervisions of a certified applicator, commercial pesticide application businesses, agricultural organizations, crop/commodity groups, training organizations, regulatory partners, key NGO stakeholders, and other affected agencies and/or organizations) on the changes to state/tribal certification programs and requirements that may have resulted from certification plan changes needed to meet the revised Part 171 rule requirements to the regulated and impacted community.
 - a. Disseminate national and state/tribal outreach and training materials to growers and stakeholders via compliance assistance visits, attendance at applicator training meetings, etc.
 - b. Leverage State Land Grant Universities/University Extension/Tribal Education networks, associated industry-based resources and online resources to reach affected pesticide applicators.
 - c. Provide compliance assistance to affected certified applicators, RUP dealers, and supervisors of non-certified applicators.

- a. Update state/tribal webpages and social media with relevant information and links to key applicator training information and materials.
- Update existing state/tribal-level applicator training and certification materials (manuals, exams, recertification programs, etc.) in accordance with schedules and timelines contained in the plans to implement changes to state certification programs and requirements that may have resulted from certification plan changes needed to meet the revised Part 171 rule requirements.
- Attend and participate in any program-related training efforts initiated by HQ or EPA regions, and /or other trainings taking place in the state or Indian country.

ii. Supplemental Activities to Support CPA Rule Program Implementation

As resources allow, grantees are encouraged to undertake work on one or more of the supplemental activities listed below. The Agency believes these optional activities will enhance CPA Rule program implementation and lead to better overall protection for pesticide applicators, especially noncertified applicators applying RUPs under the supervision of a certified applicator. Grantees with large numbers of certified applicators, noncertified applicators applying RUPs under the supervision of a certified applicator, or unique pesticide applicator certification issues should consider a higher level of activity in this program area.

- Suggest project ideas that would support the implementation of the revised Certification rule to the Pesticide Educational Resources Collaborative (PERC), a cooperative agreement between the Office of Pesticide Programs and University of California Davis Extension, in collaboration with Oregon State University. Projects could include the development or revision of manuals, exam banks or other materials. Proposed project ideas can be submitted on PERC's web site: <http://pesticideresources.org/>.
- Consider participating on Certification and Training Assessment Group (CTAG) projects and activities stemming from the reorganized CTAG process. Grantees should keep abreast of the ongoing CTAG projects and activities and identify potential opportunities for collaboration with the National Pesticide Safety Education Center (NPSEC) and CTAG ([http://ctagroup.us/#:~:text=CTAG%20is%20a%20group%20of,certification%20and%20training%20\(C%26T\).](http://ctagroup.us/#:~:text=CTAG%20is%20a%20group%20of,certification%20and%20training%20(C%26T).)).

Enforcement Considerations

Monitor compliance with certification requirements. Where appropriate, focus on sale/distribution of restricted use pesticides (RUPs) to applicators in fumigation sector(s) of concern due to the high potential for severe, acute incidents from exposure.

Specific Reporting Requirements

The annual Certification Program accomplishment reporting information must be entered into CPARD annually by December 31st of each calendar year **regardless of the actual grant project period**. By properly and completely filling out the reporting section of the CPARD system, states/tribes will provide the annual CPA Rule accomplishment reporting information that contains all of the information required by Part 171. States and tribes should work with their regional office to get any technical assistance needed to assure they can access and properly use the CPARD system.

Each grantee should continue reporting according to its existing EPA-approved certification plans until EPA has approved the revised certification plan and the grantee has implemented the revised plan.

D. PESTICIDES IN WATER

Goal

The goal of the Pesticides in Water Program is to ensure that pesticides do not adversely affect the nation's surface water and groundwater resources and pose a risk to human health or the environment. Reducing the concentration of pesticides in urban and agricultural watersheds is part of the Agency's Strategic Plan (see Section E below). Work in this program area will protect the environment by implementing EPA's statutes and taking regulatory actions to ensure pesticides do not pose undue risk when used in accordance with the label.

Program Description

While grantees are required to conduct the following activities, the Pesticides in Water program allows flexibility for grantees to discuss the level of effort with their EPA regional office. EPA recognizes that grantees will create their Pesticides of Interest (POI) lists based on local evaluations and include these lists in their work plan. Note, activities 1-5 can be accomplished using existing information. No new water quality monitoring data are required. However, grantees interested in using grant funds for water quality monitoring may do so as a part of their program as long as steps 1-6 are being met. Program steps include:

1. Share Existing Data
2. Identify Pesticides of Interest
3. Identify Pesticides of Concern
4. Manage Pesticides of Concern
5. Demonstrate Progress
6. Re-evaluate
7. Optional Monitoring

These terms and activities are more fully explained below. Where appropriate, grantees are encouraged to consult with or coordinate prevention and protection of water resources with other agencies with similar responsibilities for water resource protection.

i. Share Existing Data

Grantees must provide OPP with access to existing water monitoring data if that data: 1) Has not already been submitted to EPA; 2) is not already available in EPA's Water Quality Portal (WQP); or 3) is not otherwise available through data sources readily accessible to OPP. As a matter of routine, OPP typically checks and reviews the following sources for pesticide monitoring data: 1) United States Geological Survey (USGS) National Water-Quality Assessment (NAWQA) Program; 2) EPA's WQP; 3) United States Department of Agriculture (USDA) Pesticide Data Program Drinking Water Monitoring. For more information on submitting water quality data to EPA, see Appendix 5, OPP Guidance for Submission of State and Tribal Water Quality Monitoring Data.

OPP is interested in existing pesticide monitoring data that grantees may have for surface water and groundwater. Monitoring data provide snapshots of pesticide concentrations in time at specific locations.

OPP is more likely to be able to quantitatively incorporate data in risk assessment when supporting information allows the results of the data to be put in context within the larger picture of pesticide exposure in the environment. When monitoring data may not be used quantitatively, they may still be valuable in providing context to the exposure assessments.

An example of useful information includes data sets or technical reports used in support of CWA §303(d) listing decisions. Providing OPP access to existing water quality monitoring data will help ensure that the Agency has the best available information when conducting its pesticide risk assessments and making registration review decisions. Information on this program is provided at <https://www.epa.gov/pesticide-reevaluation/registration-review-process> and schedules may be found at <https://www.epa.gov/pesticide-reevaluation/registration-review-schedules>.

OPP prefers to receive monitoring data in electronic format, i.e., a readable database format that is easy to import into a spreadsheet. Grantees may submit a link to a website, forward electronic data files to OPP's water monitoring mailbox at: OPPWaterMonitoringData@epa.gov, or submit data through another method mutually agreed upon by the grantee and EPA. Water monitoring data would be most useful for risk assessment purposes if it included the following elements:

Location (latitude & longitude, if possible, or other reliable location information);

- Sample media (e.g., water, filtered water, bed sediment, tissue);
- Water body type (stream, river or other flowing body; lake, reservoir, or other static body; groundwater, nature of aquifer, e.g., surficial or confined);
- Date sampled (month/day/year), and time if available;
- Chemical analyzed and reported concentration;
- Analytical method used and detection limit or limit of quantitation;
- Study objective (i.e., purpose and design of the monitoring study); a copy of a report describing the purpose and design of the monitoring study or internet web address leading to this information if available;
- Depth to water level for groundwater;
- Well characteristics including well depth, screened interval, and aquifer type if known (e.g., confined vs. unconfined); and
- Well purpose (e.g., ambient vs. drinking water).

A complete set of desirable data characteristics and procedures for submitting water quality monitoring data can be found in Appendix 5.

ii. Identify Pesticides of Interest

Pesticides of interest (POI) are those pesticides that have the potential to occur in ground or surface water at concentrations approaching or exceeding a human health or ecological reference point. The reference point is used to judge the severity of contamination with regard to potential human health or aquatic life effects. Human health reference points may be based on values such as Maximum Contaminant Levels (MCL: <http://water.epa.gov/drink/standards/hascience.cfm>), Health Advisory Levels (HAL); human health benchmarks, or state/tribal water quality criteria or standards. Aquatic life reference points may be based on values such as EPA Office of Water aquatic life criteria (<http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm>), OPP aquatic life benchmarks, or state/tribal water quality criteria or benchmarks.

A POC could be an active ingredient alone or the active ingredient collectively with degradates of toxicological concern.

For this cooperative agreement cycle, grantees should establish their own working list of POIs based on the description above. In discussion with the regions, pesticides can be added or removed from a grantee's POI list. At a minimum, the POI list must include the chemical name and CAS number.

Over time, POIs must be evaluated to determine whether they are pesticides of concern. Additionally, OPP may request the evaluation of additional POIs. As an example, OPP might select pesticides undergoing registration review, from new pesticide registration actions, or in consultation with the SFIREG EQI working committee. Attach the POI list to the FIFRA Grant Database in the "Documents" section. Instructions for attaching documents will be found in the FGD Master User Guide, see Appendix 2 for the FGD Master User Guide link.

iii. Identify Pesticides of Concern

Pesticides of concern (POC) are identified by evaluating a list of POIs over time to determine if those pesticides may be found at concentration levels approaching or exceeding reference points and therefore are a threat to local water quality. Grantees must provide a list of POCs and briefly discuss the basis for identifying POCs. In most cases, POCs can be based on available monitoring data from within a state or tribe. POC identification may also be based on the pesticide's environmental fate, use patterns, performance in the field, available prospective monitoring studies, peer-reviewed scientific literature, modeling data, or monitoring results and experience from other states or tribes with comparable conditions. Optional water quality monitoring may be included as a program component as described in section vi below.

In reviewing the list of POIs, grantees can be considered to have conducted an evaluation if no reasonable exposure is expected for a pesticide due to factors such as soil type, use pattern, or volume of use. The pesticide would not need to be elevated to a POC, and no further management would be required. If a grantee previously conducted an evaluation of a pesticide of interest prior to this Guidance, this will also be considered having completed an evaluation.

An evaluation is considered complete once the grantee makes a conclusion that the POI is either likely to exceed a human health or environmental reference point in localized areas of a state or tribe and therefore should be elevated to a POC and managed, or is not likely to approach a reference point and does not need to be managed.

After evaluation, if a grantee finds the pesticide that is the cause of a water quality impairment under CWA §303(d) is not of concern, this information should be shared with the state water agency with responsibility for managing the list.

Over time, EPA will be looking for states and tribes to evaluate all POIs. Grantees will negotiate the schedule of evaluations and level of effort with the regions to reflect differences in their capabilities, available information, program authorities, resources available, and the relative priority of their pesticides in water concerns in relation to other pesticide concerns that may exist. However, grantees should place priority on evaluations of POIs for which water quality concerns are identified in FIFRA registration review.

iv. *Manage Pesticides of Concern*

Pesticides that are identified as a concern following the evaluation must be managed. Grantees must briefly discuss management actions for POCs; management examples are provided below. At the state or tribal level, a pesticide is **actively managed** when extra or focused activities are carried out to prevent or reduce contamination of water by a particular active ingredient so that it is prevented from reaching the water quality standard or other reference point or brought below the reference point. Where appropriate, grantees are encouraged to consult with or coordinate prevention and protection of water resources with other agencies with responsibilities for water resource protection.

The following examples of active management were identified by the EPA/State Workgroup that developed the national pesticide water quality measures in 2005. They are not meant to be exclusive and regions can negotiate other activities with states and tribes to manage pesticides of concern:

- Applicator or user education, hands-on training, or public outreach on practices that minimize the amount of the pesticides of concern that enter water;
- Water quality assessment to identify vulnerable water resources and conducting outreach to applicators and growers on locally-specific management practices that should be taken to protect water quality in these sensitive areas;
- Promotion and adoption of voluntary best management practices (BMPs) judged to prevent or reduce contamination by a pesticide e.g., riparian buffer zones, filter strips, no-till cultivation;
- Management control decisions based on spatially and temporally focused surveillance monitoring;
- Targeted inspections and enforcement of existing water quality-related label restrictions and cancellation notices;
- Designation as state or tribal “Restricted Use” due to water quality concerns;
- Imposition of other use or label restrictions designed to reduce contamination of a pesticide;
- Denial of state registration due to water quality concerns;
- Activities specific to assessing and addressing CWA § 303(d) “impaired waters;” and
- Activities specific to assessing and addressing urban and agricultural watersheds that exceed USGS NAWQA benchmarks for pesticides.

v. *Demonstrate Progress*

States and tribes should be able to demonstrate that the management actions they have taken have been successful at reducing, or are likely to reduce, pesticide risk to water. Examples for demonstrating progress include:

- Targeted monitoring of water samples from vulnerable use areas that determines that mitigation measures are preventing residue levels from approaching or exceeding a reference point;
- Downward trends in concentration levels established by monitoring data in geographic areas where the pesticide of concern is being used (data from USGS, registrant, USDA, or other sources);
- Results of targeted surveys or inspections that document the wide adoption of voluntary or regulatory measures which have been proven via research to protect water quality; and
- Denial of state registrations.

vi. ***Re-evaluate***

Grantees should **re-evaluate** a pesticide if there is new information. New information may include new hazard data, a significant increase or decrease in use, a new EPA risk assessment or registration decision indicating a pesticide water quality concern, new use patterns, or a change in risk of exposure for the pesticide. Evaluations may result in adding or removing POIs and/or POCs from current lists.

vii. ***Optional Monitoring***

Optional water quality monitoring may be conducted as a component of the pesticides in water program if 06.01.02 through 06.01.06 are being addressed.

Grantees must have an approved Quality Assurance Program Plan (QAPP) in place that allows for water quality monitoring and must discuss what monitoring work may be funded with their project officer. Grantees are encouraged to leverage monitoring funds with other federal agencies (such as the U.S. Geological Survey), as well as local or state agencies or universities conducting water quality monitoring. Grantees should consult with the regions regarding the monitoring data they plan to use and ensure EPA-approved methods are met.

Enforcement Considerations

Per 06.02.01, monitor compliance and respond to pesticide water contamination events especially where water quality standards or other reference points are threatened.

Reporting Requirements

Grantees must report their national water quality activities annually as part of their End-of-Year Reporting in the FIFRA Grant Database. If available, states should also submit any data from water monitoring acquired during the grant year to EPA via the OPP's water monitoring mailbox at: OPPWaterMonitoringData@epa.gov. In addition to the data sets themselves or links to data on the web, states and tribes are encouraged to cite other studies, reports, literature or information on water quality monitoring to improve or upgrade baseline data on pesticide effects on human health and the environment. From reported water program activities, EPA expects to:

- Determine which POIs have been identified by grantees;
- Determine which POCs have been identified by grantees and why;
- Identify POCs that are being actively managed, and the approaches being used; and
- Demonstrate that grantee water quality management programs are effective at reducing pesticide risks to water quality locally.

EPA access to this information will allow the Agency to measure progress in protecting human health and the environment from the potential impact of pesticides to water quality.

Measuring Success

EPA will be looking for states, tribes and territories to evaluate their identified POIs. Grantees should maintain a list of POIs and inform their regional project officer when the list is updated. The schedule and priority of which pesticides need further management is a grantee decision to be discussed with the region.

Grantees should also track and identify the number of pesticides for which management has demonstrated progress toward keeping (or returning) pesticide concentrations in water to below a reference point.

States, tribes and territories should re-evaluate a pesticide if there is new information/data to evaluate (e.g., new hazard data, new EPA risk assessment indicating a pesticide water quality concern), new use patterns, or increased risk of exposure for the pesticide. Once the new information is considered and documented, a determination should be made as to whether pesticide levels are approaching or exceeding a reference point. Grantees should track the number of evaluations done annually.

Ultimate success in the Pesticides in Water Program is that grantees have managed their pesticides to the point that they are no longer pesticides of concern. That is, the levels of a pesticide of concern in local water resources is no longer approaching or exceeding the reference point because of denial of state registrations, restriction, or another effective management strategy. Grantees should maintain their list of pesticides of concern to document what stage they are at in the management process, including when a pesticide is considered to have been successfully managed.

E. PRODUCT INTEGRITY

Goal

The goal of this program area is to ensure that human health and environmental risks are adequately mitigated through the Agency's registration and related labeling process. The Pesticide Product Integrity focus area supports the Agency's Strategic Plan Goals for a Cleaner, Healthier Environment, and More Effective Partnerships.

Program Description

Pesticides are registered after undergoing a significant review and risk/benefit analysis intended to ensure that human health and environmental risks are adequately mitigated through the Agency's registration and labeling process. Grantees should conduct compliance monitoring activities, in order to determine composition compliance, label and labeling compliance and product registration. In some cases, grantees may engage in product efficacy activities to verify the integrity of pesticide product registration and labeling.

Enforcement Considerations

Grantees should focus on producer establishment inspections known to produce supplemental distributor products, RUPs, Tox-1 pesticides, or pesticides of regulatory concern such as fumigants and antimicrobial pesticide products. Grantees should collect product samples and submit these physical samples to their laboratory for formulation analysis to ensure product composition complies with the terms of the registration.

F. BORDER COMPLIANCE

Goal

The border compliance program area supports the EPA OECA National Program Managers Guidance, and the Agency's Strategic Plan Goals for a Cleaner, Healthier Environment, and More Effective Partnerships.

Program Description

Grantees selecting this program area are expected to assist regions when necessary to monitor movement of imported pesticides within states, territories or tribal lands, and may occur during pre or post-entry. For pre-entry, U.S. Customs and Border Protection (CBP) may refer examinations (e.g., inspections) of pesticide and device shipments prior to entry into the customs territory of the United States to EPA regions, allowing EPA to conduct product label reviews, validation of information provided by importers and brokers prior to arrival (such as with the Notice of Arrival (NOA)), and collection of retail size product and samples from bulk product, as appropriate.

Depending on the regional office's coordination with CBP's port offices, state, tribal and territory inspectors may be able to assist with import inspections that are in geographical proximity to the destination location. In this scenario, the import shipment would be under a "Hold Intact" order by CBP until EPA or its state, tribal or territorial partner has inspected the shipment and the EPA Regional office can make an admissibility determination. This approach would assist our CBP partners by moving hazardous chemicals out of the ports and to what we would assume to be a safer location for storage.

For post entry, inspectors may look at the product at ultimate consignee's establishment (producer establishments or marketplace establishments) as follow up establishment inspections. Many manufacturing use pesticide products are imported as source materials by producers of end-use pesticide products.

Some of these activities may be generated in response to these requests and targeting from the regional office whereas other activities can be initiated based on the states own targeting.

Enforcement Considerations

Pre-entry Inspections

Grantees should conduct inspections for imported pesticides upon regional request. It is important that the region establish the appropriate steps necessary to meet the "Hold Intact" or "Detain" for inspection requested by CBP in accordance with FIFRA section 17(c) and 19 CFR 12.110-117. The specifics of these inspections should be defined through coordination with the regional office. The inspections should be conducted with federal credentials if EPA has requested the inspection. The inspections may include shipments detained at ports of entry, foreign trade zones, bonded warehouses, CBP central examination centers, or other designated locations as coordinated by the region with CBP.

Post-Entry Inspections

Inspections may be coordinated with the EPA regional office and be conducted at producer facilities and/or retail and distribution centers where the imported products have been delivered.

Reporting Requirements

None.

GRANTEE PROGRAM AREAS PICK-LIST

The following section corresponds with Section III of the FIFRA Cooperative Agreement Guidance on page 9. There are eight Grantee Pick-List Program Areas which are listed in the order they appear in the Guidance.

G. FUMIGANTS AND FUMIGATION

Goal

The goal of this program area is to prevent or reduce incidents resulting from fumigation exposures which is consistent with the Agency's Strategic Plan Goals for a Cleaner, Healthier Environment, and More Effective Partnerships.

Program Description

Grantees selecting this program area should conduct inspections to ensure product compliance and proper use of fumigant products. Grantees may also conduct producer establishment inspections where fumigants are being produced or use inspections to monitor compliance with the use of these products. Special emphasis should be placed on structural pest control applications as well as other situations involving fumigants such as rodent control, granaries, warehouse commodities, and other fumigation scenarios where potential human exposure is of concern.

Enforcement Considerations

Reducing risk is ultimately accomplished through compliance with and enforcement of product labels. Grantees should focus on product compliance, as well as related fumigation use activities by conducting use and/or producer establishment inspections to ensure compliance. Grantees should also consider establishing relationships with other federal, state, tribal and local agencies within their region to assist in compliance and enforcement activities.

H. ENDANGERED SPECIES PROTECTION

The focus of EPA's Endangered Species Protection Program (ESPP) is to evaluate whether pesticide use in a certain geographic area may affect any listed species. If enforceable, pesticide use restrictions are necessary to protect listed species in that area, the information is relayed through Endangered Species Protection Bulletins.

Goal

Through risk assessment and mitigation, the goal under the ESPP is to carry out EPA's responsibilities under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in compliance with the Endangered

Species Act (ESA), without placing unnecessary burden on agriculture and other pesticide users.

The ESPP supports the Agency's Strategic Plan Goals for a Cleaner, Healthier Environment, and More Effective Partnerships.

Program Description

If selected from the Grantee Program Area Pick-List, state and tribal pesticide lead agencies may select from the following list of activities to support the ESPP. A grantee can choose to do one or more of the activities or to do part of an activity, in accordance with the need, level of resources and expertise available in their state or tribe.

i. Outreach and Education

During the term of this grant Guidance, states and tribes can educate current and potential pesticide users and pesticide inspectors about the ESPP. Topics that could be covered include field implementation aspects of the Program as described in the Federal Register notice (70 FR 66392, Nov. 2, 2005).

For pesticide users, the topics could include:

- the generic endangered species label statement referring pesticide users to Bulletins;
- how to find a Bulletin, including the use of OPP's dedicated website at <https://www.epa.gov/endangered-species/>, "Bulletins Live! Two";
- what a Bulletin is, what it conveys and how to use it; and
- information about inspections and enforcement per the OECA grant Guidance (e.g., Bulletins are part of the label and will be enforced under FIFRA through routine pesticide use inspections).

For pesticide inspectors, the topics could include:

- how to read Bulletins;
- how to access historic Bulletins for inspections;
- familiarity with local Bulletins and the species addressed in them; and
- the goals of the Program; i.e., to protect listed species from possible harm due to pesticide use, while at the same time, not placing unnecessary burden on agriculture or other pesticide users.

In the event that no Bulletins are available for a particular area, education efforts could focus on one or more of the following:

- habitat protection training sessions for pesticide applicators, inspectors and others who must follow the provisions of the program;
- concepts and benefits of integrated pest management (IPM); and
- ways to reduce pesticide spray drift and pesticide runoff to avoid exposure to endangered species.

ii. Risk Assessment and Risk Mitigation Support

Support provided by states and tribes can be in response to litigation, registration review or other registration activities. Information can be provided to EPA using OPP's Stakeholder Engagement Process. Activities may include:

- providing information such as crop data, pesticide use and usage data, and monitoring data to OPP for use in listed species-specific risk assessments for upcoming registration review cases. These cases may

be identified on EPA's website at: <https://www.epa.gov/pesticide-reevaluation/explanation-registration-review-schedule>. A registration review docket is opened and a work plan developed for each pesticide case. The work plans articulate data EPA believes it needs and discusses the assessments that will be conducted and the time frames for those assessments. OPP would find it most useful for grantees to provide any relevant endangered species information they may have 18 months prior to the projected date for completing a risk assessment;

- commenting on exposure assumptions used in risk assessments;
- commenting on the feasibility of proposed, listed species-specific mitigation measures during OPP's standard processes of registration and registration review; and
- reviewing draft Bulletins, should any be developed in a state's area.

iii. Establish and Maintain Relationships

Build and maintain relationships with local, regional fish and wildlife agencies. Activities may include:

- providing draft Sec. 18 and 24(c) submittals for review and comments;
- evaluating site-specific listed species/pesticide concerns (e.g., water sampling);
- reporting to EPA any wildlife incidents suspected of being pesticide-related;
- collaborating on certification & training presentations and workshops; and
- developing joint outreach materials

iv. Work with Certification and Training Staff and Cooperative Extension Services

Provide endangered species information to Certification and Training Staff and Cooperative Extension Services for Pesticide Applicator Trainings. Activities may include:

- incorporating endangered species information such as Bulletins into certification and training. This activity will help keep state staff up to date on the progress of EPA's Endangered Species Program.

Reporting Requirements

Grantees should annually collect, summarize, and report to EPA compliance and non-compliance information for all inspections where Endangered Species Bulletins are applicable as described in Section E below (this information should be provided whether or not this program area is selected from the pick-list). To help OPP assess the effectiveness of endangered species risk mitigation requirements and Endangered Species Bulletins, please include some information on the pesticide products and bulletin provisions that were violated. The Endangered Species Inspections Report Form can be found in the FIFRA Grant Database.

The FIFRA Grant Database must be used to submit an end-of-year report that documents endangered species activities conducted as agreed to in the cooperative agreement work plan. Grantees providing risk assessment and risk mitigation support for use in listed species-specific risk assessments for upcoming registration review cases should do so by commenting on the open dockets using the Stakeholder Engagement Process identified at: <http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPP-2012-0442-0038>

Performance Measures

To determine the effectiveness of the ESPP and the approaches listed above to limit potential effects from pesticide use on federally listed threatened or endangered species, OPP will use compliance information submitted annually (when available) to apply to the following formula to measure progress:

Yearly percent of inspections where endangered species requirements were in place and followed = $(a-x)/a$, where:

- a is the number of use and for cause inspections where it could be determined that the pesticide product was labeled requiring the applicator to follow the pesticide use limitations and any applicable Endangered Species Protection Bulletins; and
- x is the number of use and for cause inspections where the pesticide applicator was alleged to be in violation of the Endangered Species labeling requirements, including any applicable Endangered Species Protection Bulletins.

This is a program-specific performance measure.

I. BED BUGS

Goal

The goal of this program area is to minimize the potential for pesticide misuse/overuse and spread of bed bug infestations by increasing understanding of integrated bed bug prevention and control approaches. Efforts to provide bed bug outreach and assistance supports the Agency's Strategic Plan Goals for a Cleaner, Healthier Environment, and More Effective Partnerships.

This priority also supports the Agency's environmental justice goals because economically-challenged segments of the population may have more trouble controlling an infestation due to the relatively high cost of effective treatment, living in more densely populated and multifamily housing, and limited access to information.

Program Description

Bed bug complaints and infestations remain substantial in some areas of the country, and bed bug infestations are predicted to remain a significant issue. People seeking inexpensive and rapid solutions have, in some cases, resorted to the use of unregistered pesticide products or the misuse of registered products. To address this issue, grantee efforts should focus on:

- 1) Establishing relationships with local HUD offices that provide housing and homeless shelter services to provide outreach and training on bed bug prevention and management;
- 2) Establishing relationships with local health departments on cooperative efforts to educate and respond to public bed bug inquiries and pesticide misuse issues;
- 3) Promoting the use of integrated pest management (IPM) for bed bug control;
- 4) Encouraging the proper use of registered pesticides considered effective against bed bugs;

- 5) Discouraging the use of unregistered pesticides or the overuse of registered pesticides as measures to control bed bugs;
- 6) Providing information to the public on bed bug infestations including IPM methods for control;
- 7) Collaborating with other federal, state, local and tribal agencies and stakeholders to share information on IPM-based bed bug control; and
- 8) Promoting product and user compliance, focusing on illegal bed bug control claims and the illegal use of products not registered for control of bed bugs.

Grantees should use existing outreach materials available on the EPA Bed Bug Clearinghouse (www.epa.gov/bedbugs/bed-bug-information-clearinghouse). However, if grantees wish to develop additional outreach materials, they should avoid duplicating existing materials by consulting with their project officer and discussing the concept with OPP and the EPA Bed Bug Clearinghouse. Bed bug outreach materials developed by the grantee should also be added to the EPA Bed Bug Clearinghouse.

Enforcement Description

None.

J. POLLINATOR PROTECTION

Goal

Through risk assessment, mitigation, education, and outreach, EPA's goal under the Pollinator Protection Program is to ensure pollinators are protected from potential adverse effects of pesticide exposure and to promote the development and enhancement of pollinator habitat. The Pollinator Protection Program supports the Agency's Strategic Plan Goals for a Cleaner, Healthier Environment, and More Effective Partnerships.

Program Description

Grantees selecting this program area will focus activities on technical assistance, education and outreach to growers, pesticide handlers, beekeepers and other landscape resource managers to encourage the adoption of methods and practices intended to protect bees, monarch butterflies, and other pollinators and the resources they rely upon. Grantees should use all resources and partnerships available to promote IPM, stewardship, and best management practices (BMPs). When possible, grantees should establish and develop relationships within their state or tribal apiary programs as well as beekeeper and grower organizations, crop advisors, NGOs, government and university researchers, pesticide registrants, and federal government offices or installations (*e.g.*, DOD, USDA, USGS, DOI) to promote and assist pollinator protection activities as they relate to the use of pesticides.

When possible, grantees should work with their state/tribal apiary programs to educate beekeepers about IPM, and the importance of monitoring / treating colonies for pests (*e.g.*, Varroa mite; small hive beetle; Asian hornet) and diseases (*e.g.*, AFB; Nosema; viruses). Outreach should include discussions about what products are registered for use in beehives, and what the potential risks to hives and applicators are when unregistered pesticides are used, or pesticides are used off-label.

As part of these activities, grantees are encouraged to develop, implement and/or expand the scope of managed pollinator protection plans (MP3s) and/or plans for protection of non-managed pollinators and habitats on which they depend. This may include broad-reaching efforts with local stakeholders that consider means of reducing acute and chronic exposure to pesticides, expanding pollinator habitat, or encouraging agricultural practices that reduce environmental loading of pesticides. Grantees should work collaboratively to identify metrics for evaluating the impact of MP3s and broader pollinator protection efforts toward promoting/enhancing the health of honeybees and other pollinators. Grantees are also encouraged to promote the use of best management practices, integrated roadside vegetation management, and mowing best practices in roadsides, rights-of-ways, or managed natural areas which may support pollinator habitat.

Enforcement Description

While there is no enforcement requirement for pollinator protection, grantees should consider working with their state apiary program (where one exists) to incorporate hive inspections as part of their basic program priority setting plans under 01.02.04. In addition, grantees should follow the EPA Bee Incident Investigation Guidance, or similar state or tribal guidance, (available online at: <https://www.epa.gov/compliance/guidance-inspecting-alleged-cases-pesticide-related-bee-incidents>) when investigating a bee incident.

Specific Reporting Requirements

Pollinator incidents and investigations provide OPP valuable information regarding the degree to which pesticides may impact pollinator health and are associated with pollinator declines. Therefore, grantees must report the results of investigations of all known or suspected pesticide incidents involving pollinators to OPP at: beekill@epa.gov with a copy to the regional project officers.

Basic elements of an incident report are explained in the Guidance referenced above. Useful baseline information includes the location and date of the incident, the species affected, the approximate total number of each species affected, the suspected pesticide(s), whether the pesticide(s) was/were in use at the time of the loss, the crop/area on which the pesticide was applied, and whether residues were detected.

K. INTEGRATED PEST MANAGEMENT (IPM)

Protecting human health and the environment and limiting the economic burden of pests are top priorities for the EPA. Pesticides, widely used in agricultural, vector management, and nonagricultural settings, provide substantial benefits while also posing challenges and concerns. With this in mind, the Agency developed a program to encourage the adoption of integrated pest management (IPM) practices as a means of reducing unnecessary exposure to, and risk from pests and pesticides. IPM is an interdisciplinary approach to pest control that utilizes multiple methods to prevent, eliminate, and/or control pests. Since IPM targets the causes of pest problems, it can reduce the unnecessary economic, environmental, and health consequences of pesticide-centric approaches to pest management.

Goal

The goal of this program is to: 1) build upon existing partnerships and continue to collaborate to promote and support IPM; 2) demonstrate the value of IPM in protecting human health and the environment; 3) grow

and effectively leverage the IPM stakeholder network; 4) provide information on the IPM tools available through technical assistance and support; and 5) coordinate, consult, and advise on emerging public health and environmental issues that can be effectively managed using IPM approaches. This program area supports the Agency's Strategic Plan Goals for a Cleaner, Healthier Environment, and More Effective Partnerships.

Program Description

Efforts under this program area should increase the adoption of IPM practices, including the use of reduced risk pesticides, biopesticides, cultural, and physical tools to reduce sources of food, water, and shelter for pests. To reach our desired state of widespread adoption of IPM, grantees will assist EPA in working with state and local agencies, universities and non-governmental organizations to provide information on IPM. Grantees may use the information and tools available through EPA's Center for IPM to either establish or grow their IPM programs. For this cooperative agreement cycle, grantees' IPM efforts will target these three key sectors:

1. **Public Health** - Reduce populations of pests that may pose significant health risks, including the vectors of disease, by working with the regulated community using IPM to improve the efficacy, cost-effectiveness and ecological soundness of pest management.
2. **Agriculture** – Work with the regulated community to reduce pest populations in agricultural settings using IPM approaches that are economically sound and minimize risks to human health and the environment.
3. **Within Structures** - Work with the regulated community using IPM approaches to reduce or eliminate sources of food, water, and harborage that are available to pests, and limit pest access into buildings, such as schools, daycare centers, hospitals, and public housing.

The approach involving these three key sectors is intended to allow grantees flexibility in developing their annual work plans. Because IPM requires collaborative efforts, partnering and coordinating with the regulated community and local stakeholders will result in the biggest gains in the adoption of sustainable IPM practices and programs.

EPA recognizes that IPM is at different levels of execution in each state, tribe, and local community. Many communities currently have little to no active IPM activities. Other states have many ongoing activities or have already adopted IPM guidance and/or legislation (e.g., for schools) with varying levels of supportive infrastructure. Some states have a strong stakeholder base and recognized change agents while others do not. These varying situations require a grantee's approach to IPM implementation to remain flexible enough to meet their unique needs. Grantees will need to combine their knowledge of local IPM efforts with activities that will most effectively further their program objectives.

Key activities for this program area include:

- *10.01.05: Provide education, outreach, and/or training on IPM approaches to three key sectors – public health, agriculture, and structures.* Grantees will leverage EPA's established relationships with national and regional workgroups, drawing upon networks of subject matter experts from across the nation, to target IPM

work in a specific sector. This will include the dissemination of existing educational outreach materials and educational programs on IPM. The targeted sector will be specified in the work plan.

- *10.01.06: Forge partnerships and collaborations that promote and support IPM in agricultural, community and public health settings.* Grantees will support existing and/or develop new relationships with state agencies, state/local chapters of national non-governmental organizations, local government entities, tribes, and/or universities to promote and support IPM, foster the efficient transfer of information, encourage collaboration, reduce duplication of effort, and accelerate IPM adoption.
- *Demonstrate the value of IPM in protecting human health and the environment.* Grantees will market IPM materials developed by EPA's Center for IPM to demonstrate the value of IPM in protecting human health and the environment. Grantees will use webinars, social media, email outreach, web content, conference presentations, and training events to promote IPM.
- *Consult and advise federal, state, tribal, and local agencies on emerging issues associated with IPM and pesticides.* Grantees will cultivate and strengthen existing relationships to effectively respond to emerging issues and promote IPM as a key mechanism for protecting human health and the environment.

Enforcement Considerations

None.

L. SPRAY DRIFT

In 2014, EPA initiated the voluntary Drift Reduction Technology (DRT) Program to encourage the identification and use of pesticide spray application technologies verified to substantially reduce spray drift. Such technologies may include spray nozzles, shrouds and shields and drift-reducing adjuvant chemicals used for aerial or ground boom applications to row and field crops. OPP will encourage manufacturers to test their technologies to verify and quantify drift reduction potential, and OPP will encourage registrants to label their agricultural pesticides for application with these technologies. As a result of this program, OPP expects to see an increased adoption of drift reduction technologies on pesticide labels and by pesticide applicators.

Goal

Reduce spray drift incidents by increasing awareness and adoption of spray drift reduction techniques and technologies. The Drift Reduction Technology (DRT) Program supports the Agency's Strategic Plan Goals for a Cleaner, Healthier Environment, and More Effective Partnerships.

Program Description

Grantees that select this program area should conduct education and outreach activities that increase awareness and promote adoption of spray drift reduction techniques and technologies.

Additionally, grantees should gather agricultural spray drift incident data from the past 2-3 years to form an incident baseline and then gather additional incident data during the grant period. This agricultural spray

drift incident data, collected over time, can help the EPA the effectiveness of DRT Program. The key parameter to collect is number of incidents investigated by the grantee related to spray drift of agricultural pesticides. More detailed information to collect includes:

- State or tribe where the incident occurred;
- Aerial or ground application;
- Wind speed at start and end times of application;
- Release height at time of application;
- DRT equipment used, and identification of the technology used;
- Indication the DRT was used properly (yes/no);
- Weather conditions at start and end times of application including humidity, temperature, and inversion conditions if applicable;
- Pesticide product(s) used, including EPA reg number(s);
- Target site or crop;
- Off-target drift site (e.g., home, school, crop, wetland, ornamentals, humans, wildlife, livestock, garden, waterbody, etc.);
- Estimated distance from the target site to the site where effects were observed;
- Any observed effects including documented off-target drift, volatilization or windblown soil;
- Determination of any human or animal cases involved;
- Other state agencies or EPA region contacted; and
- Known label violations.

Enforcement Considerations

Grantees should investigate alleged incidents of spray drift and take appropriate enforcement action. Grantees should also provide information on the actions taken as a result of their investigations as part of their end-of-year report. If there were adverse health effects, document the symptoms as well as the number of cases, and who was affected such as field workers, residents or bystanders. Finally, enforcement actions should also be documented (e.g., no action, notice of warning, civil penalty, criminal penalty).

Reporting Requirements

The data as described above will help inform the EPA and states/tribes about the success of the new DRT program and provide ideas for making further improvements to reduce spray drift incidents. This information should be reported annually in a separate file attached to the end-of-year report.

M. STATE AND TRIBAL COORDINATION AND COMMUNICATION

It is a goal of the Agency to encourage tribes, where appropriate and feasible, to increase their communications and coordination with state pesticide programs as a resource to build capacity for tribal pesticide programs.

Increased coordination can be low-cost and low effort and can reap many benefits for tribes and states while still respecting tribal sovereignty and jurisdiction. It can improve tribal access to programmatic and technical expertise, support and training. It can also provide states and tribes with greater assurance of

adequate pesticide program protection within or contiguous to their borders and resources.

Goal

Where appropriate, support tribal pesticide program capacity building and efficient use of resources by improving communication and cooperation between tribes and states to advance pesticide program implementation and increase program efficiencies. Efforts to build tribal pesticide program capacity through this approach supports the Agency's Strategic Plan Goals for a Cleaner, Healthier Environment, and More Effective Partnerships. This priority can also support the Agency's tribal and environmental justice goals, including the Administrator's commitment to enhance state, tribal and local partnerships. This approach is also consistent with Principle #6 of the agency's 1984 Indian Policy which can be viewed online at:

<https://www.epa.gov/tribal/epa-policy-administration-environmental-programs-indian-reservations-1984-indian-policy> .

Program Description

Grantees selecting this program area are required to work collaboratively with tribes within their borders to strengthen relationships, increase understanding and respect of jurisdictional issues, and identify areas for capacity building. All efforts and approaches must support and respect tribal sovereignty and jurisdiction. Examples of areas where state pesticide programs may be able to offer low-cost support to tribal pesticide programs, or vice-versa, include:

- Involving state and tribal staff and managers in FIFRA-related training as appropriate in an effort to share expertise and understanding;
- Sharing tools, templates, checklists or databases between states and tribes;
- Having states routinely inform tribes when they issue a FIFRA Section 24(c) or request a FIFRA Section 18 from the EPA;
- Sharing pesticide monitoring data; and
- Establishing state and tribal technical and program expert contacts for pesticide personnel.

Enforcement Considerations

Examples of areas where state pesticide enforcement programs may be able to offer low-cost support to tribal pesticide enforcement programs, or vice-versa, include:

- When training FIFRA inspectors, involve state and tribal inspectors in the training as appropriate in an effort to share expertise and understanding;
- Offer tribes an opportunity to ride along with state pesticide inspectors, and vice versa, for training purposes;
- Share information between states and tribes on tips, complaints, violators, and/or incidents that may be relevant in or near Indian country;
- Provide lab support to tribes; and
- Work with tribes to identify establishments within tribal boundaries.

This approach does not authorize state compliance assurance or enforcement in Indian country.

N. EMERGING PUBLIC HEALTH PESTICIDE ISSUES

This program area recognizes that there may be local public health concerns that will require grantees to shift their attention and resources from planned work to address unplanned public health concerns. Public health concerns may arise when insects or microbial pests transmit or cause diseases such as Zika, Lyme Disease or COVID-19. Public health leaders may turn to state, tribal or territory pesticide programs for current, accurate, and specific information about pesticides, including antimicrobial products including disinfectants. In addition, state, tribal or territory pesticide program personnel may be shifted away from their regular work to provide assistance to other offices addressing a public health concern.

Grantees selecting this program area must demonstrate that there is an emerging public health issue that requires substantial attention from their office during the next project period. Examples of this include:

1. A state of emergency has been declared;
2. The equivalent of 1 FTE is reassigned to work full time on an emerging public health concern; or
3. It can be otherwise demonstrated to the regional project officer that an emerging public health concern warrants selecting this program area.

Goal

The goal of this program area is to protect human health while addressing an emerging public health concern. This program area supports the Agency's Strategic Plan Goals for a Cleaner, Healthier Environment, and More Effective Partnerships.

Program Description

Grantees selecting this program area will need to provide information on pesticide products, uses, application methods, and label language to address the needs of the public health agencies responding to public health concern. When possible, states, tribes and territories should provide training and information on pesticides and IPM approaches specifically designed for the particular public health concern. Grantees will identify the best approach for their pesticide program based on the type of emerging public health issue. Once this has been identified, grantees will need to:

- Conduct outreach and education to affected communities on methods to minimize pesticide risk while protecting human health;
- Coordinate with EPA regions, OECA and OCSPP on pesticide issues related to human health, which may include section 18, 24(c) and Experimental Use Permit requests;
- Coordinate with all federal, state and local agencies on activities needed to protect human health from pesticide risk;
- Identify ways to minimize environmental and non-target risks from public health pesticide applications;
- Promote IPM methods to minimize pesticide applications; and
- Provide other negotiated activities as appropriate.

This program area will require close coordination between EPA project officers and their grantees. The regional project officers and managers will need to notify OCSPP and OECA of the public health concern to ensure close coordination and to make sure it meets the intent of this program area.

Enforcement Considerations

Respond to clearly identified public health pesticide issues by providing compliance monitoring and enforcement as needed. Monitor the sale/distribution of pesticide products and devices that claim to control public health pests, and take appropriate enforcement, or refer to the region, against those products which are unregistered or making false claims. Closely monitor FIFRA Section 25(b) products and products sold on the internet for inappropriate or unsupported public health claims.

APPENDIX 2: FIFRA GRANT DATABASE DESCRIPTION AND LINKS

EPA developed the FIFRA Grant Database (FGD) for work plans and reports for cooperative agreements awarded under this Guidance. Mandatory use of the FIFRA Grant Database begins for all FIFRA grantees in FY 2022.

The FIFRA Grant Database, which is accessible via EPA's Central Data Exchange (CDX), is an electronic database that replaces the FIFRA Work Plan and Report Template included in the FIFRA Grant Cooperative Agreement Guidance from FY18-21. FGD was developed by EPA with extensive input and a considerable amount of support from states with the goal of significantly reducing the administrative burden associated with work plan development and accomplishment reporting for both the grantee and EPA regional personnel. The FIFRA Grant Database also promotes clarity in work plan expectations and end-of-year results, makes work plans and reports more consistent throughout the country, and facilitates compilation and review of national year-end data.

The FIFRA Grant Database incorporates proposed work activities from the national FIFRA cooperative agreement Guidance, provides space for proposed and negotiated grantee work activities, space for grantee progress reports on negotiated work, and space for EPA comments and recommendations as part of the grantee evaluation by EPA regional project officers. It also allows for additional narrative information to be attached. The FIFRA Grant Database contains all forms needed for annual reporting and allows additional data files to be attached. The FIFRA Grant Database can be accessed online via the CDX Platform at <https://cdx.epa.gov/>

The FIFRA Grant Database does not change the type of information reported or the processes used by regional offices and grantees in submitting cooperative agreement applications, negotiating work plan commitments, and reporting on the progress of those commitments. This database is not intended to change the normal workflow process between the grantee and the EPA project officer.

FIFRA Work Plan-Report Instructions

With any new tool, there will be a period of learning and adjustment. This user guide addresses functionality of the database for users including grantees and project officers, system requirements for working in the database, and offers step-by step instructions on how to use the FIFRA Grant Database within the CDX environment. The link for the user guide is:

<https://www.epa.gov/compliance/federal-insecticide-fungicide-and-rodenticide-act-state-and-tribal-assistance-grant>

Software Needs

The FIFRA Grant Database must be supported by a web browser that enables JavaScript and that has pop-up blockers disabled. Google Chrome 44 or above is recommended for optimal performance.

APPENDIX 3: STATE PRIMACY UNDER FIFRA AND EPA OVERSIGHT QUESTIONS AND ANSWERS

Q 1 What does primacy mean under FIFRA and how does it relate to program oversight?

FIFRA provides that states, which have met certain criteria, shall be granted primary enforcement responsibility for pesticide use violations. Specifically, Section 26 (a) reads:

“In General. For the purposes of this Act, a State shall have primary enforcement responsibility for pesticide use violations during any period for which the Administrator determines that such State –

- (1) Has adopted adequate pesticide use laws and regulations, except that the Administrator may not require a State to have pesticide use laws that are more stringent than this Act;*
- (2) Has adopted and is implementing adequate procedures for the enforcement of such State laws and regulations; and*
- (3) Will keep such records and make such reports showing compliance with paragraphs (1) and (2) of this subsection as the Administrator may require by regulation.”*

Section 26 (b) continues on to explain how primacy may also be obtained through a cooperative agreement with the Agency or if the state has an approved Section 11 certification plan that meets the criteria set forth in section 26(a).

While these three mechanisms for obtaining primacy represent differing paths, the underlying criteria that need to be met to obtain and retain primacy are essentially the same.

The EPA published its Final Interpretive Rule in the Federal Register on January 5, 1983, (48 FR 404 – 411) for state primary enforcement responsibilities under FIFRA. This interpretive rule indicates that states with FIFRA primacy will be the entities with primary enforcement responsibility for pesticide use violations. EPA will refer any significant reports of pesticide misuse to the states for follow-up. While EPA retains the authority to conduct pesticide use/misuse inspections and enforce against pesticide misuse, EPA will defer conducting pesticide use/misuse inspections or enforcement proceedings for pesticide misuse to states with primacy unless the state fails to meet specific criteria described in the interpretive rule, or the state requests or defers the inspection or enforcement to EPA.

EPA’s oversight of state programs does not end once a state has primacy. Primacy is the basis of a continuous relationship between the state and EPA for successful implementation of FIFRA. This requires EPA to provide ongoing review of state programs to assure that states maintain an adequate pesticide regulatory program. This requirement is reflected in the language from section 26, such as “during any period”, “adopted and is implementing” and “will keep such records and make such reports showing compliance with paragraphs (1) and (2).” Expectations regarding the level and types of ongoing or continuing program oversight activities do not differ between the various mechanisms to obtain primacy.

Section 27 (b) and 40 CFR 173 each discuss that the Agency may rescind primary enforcement authority in whole or in part when it determines that a state is not carrying out such responsibility. This language further

conveys the intent that the Agency must provide ongoing evaluations of state programs on which to base any such determination.

The expectation and importance of ongoing EPA evaluations to assure state program adequacy has been re-emphasized via various GAO and/or OIG reports. The most recent and notable review of EPA oversight of state enforcement programs (<https://www.epa.gov/office-inspector-general/report-epa-must-improve-oversight-state-enforcement>) was critical of EPA's oversight of state air, RCRA, and water programs. While this report focused solely on the air, water, and RCRA programs, its findings are important considerations for all EPA programs. Over time, all programs, including various aspects of the pesticide program, have been and will continue to be, subject to various levels of review by the GAO and/or the OIG. EPA's ongoing reviews to assess program adequacy are critical to assuring both state and national programs are viewed as credible, transparent, and effective. In the current budget environment, where programs viewed as non- or under- performing may be subject to additional reductions in resources, the imperative for states and regions to work together to assure each of our programs continue to meet these obligations is even more important.

The framework established in FIFRA for pesticide regulation gives primacy to states, and provides for oversight by EPA, requiring both parties to work together for effective pesticide regulation to occur. Communication and cooperation are essential to success. If communication is incomplete or irregular, or cooperation does not happen, pesticide regulatory programs will not perform well at either the state or federal level.

Q 2. What should I expect from EPA in terms of program oversight? What are the types of items that will be looked at regarding primacy and the cooperative agreement?

EPA reviews of state FIFRA programs are required to be undertaken for the following purposes:

1. Program Reviews.
Verifying that the state program continues to meet the requirements for maintaining primacy; identifying areas of concern that represent potential problems for maintaining primacy; and offering suggestions to address problem areas.
2. Grant Reviews.
Assuring that federal funds are managed appropriately to accomplish the goals of the grant; that activities/products meet expectations relative to the scope, numbers, and/or quality as described in the work plan; and identification of assistance needed to meet these goals.

While not required under either review, EPA may use those processes to identify shared opportunities to improve program implementation or ways to work together to improve pesticide regulation.

The oversight activities of grant reviews and program reviews can intersect and often the reviews occur at the same time. The Interpretive Rule and 40 CFR 173 discuss EPA's criteria for assessing the need for the rescission of primacy under Section 27(b) of FIFRA. The Interpretive Rule states that "in deciding whether a State is not carrying out, or cannot carry out its use enforcement responsibilities, the Administrator will apply the criteria for an adequate program set forth in Unit II to the performance of the State during the time the State had primacy." These criteria are what EPA will examine as a part of its obligations to assure the implementation of state programs continue to meet the requirements for primacy. The criteria include:

1. Adequate laws and regulations. To be considered “adequate,” a state’s legislation must address at least the following areas:
 - a. Same use prohibitions as contained in FIFRA (FIFRA 12(a)(2)(G), 12(a)(2)(H), 12(a)(2)(P) and 12(a)(2)(F));
 - b. Authority to enter premises or facilities to inspect and collect samples; and
 - c. Flexible array of enforcement remedies suitable to the gravity of a violation.
 - d. In addition to the initial determinations required to obtain primacy, ongoing reviews will evaluate any changes to laws and regulations to assure these do not adversely impact a state’s ability to implement a program consistent with FIFRA.

2. Adequate procedures for enforcing the laws. The Agency will examine the efficacy of procedures adopted by the state to implement its pesticide laws and the state’s adherence to these procedures. This may include reviews of SOPs, tracking systems, etc., but as reflected in the Interpretive Rule on pages 409-410, the Agency will be particularly interested in the remedies the state has actually applied to various use violations. This aspect of the review will be used to determine whether there is sufficient correlation between the gravity of a use violation and the severity of the enforcement response to assure that the state’s arsenal of remedies is being applied in a flexible yet effective manner. More specifically, and as more thoroughly discussed in the Interpretive Rule, this examination of procedures will include an evaluation of the following:
 - a. State training programs for state enforcement personnel;
 - b. Sampling techniques and laboratory capabilities;
 - c. Complaint processing to assure timely response;
 - d. Compliance monitoring and enforcement; and
 - e. State education programs to determine if the programs are informing its constituencies of applicable pesticide use restrictions and responsibilities and promoting voluntary compliance.

APPENDIX 4:

ENFORCEMENT PRIORITY SETTING GUIDANCE

An effective priority-setting process will enable grantees to concentrate their compliance monitoring, enforcement programs, and training on specific pesticide production, distribution and use activities which pose the greatest risk to health and the environment. In applying for pesticide enforcement cooperative agreement monies, states and tribal priority-setting plans will be expected to include: 1) a list of the priorities; 2) an explanation of the criteria for establishing priorities; 3) a review of information sources and listing of problem areas; 4) a ranking of problem areas to be dealt with; and 5) a distribution of the available resources to the problem areas based upon the magnitude of the problem. The required content and the recommended format are discussed below.

A priority-setting plan can either be addressed in the work plan or attached as a separate document. Once it is approved by EPA, grantees need not submit the entire plan again as part of their cooperative agreement applications. They only need to reference the plan, include any amendments to the plan, and resubmit an updated list of priorities annually. However, the plan must be revised every 5 years.

I. CONTENT

The priorities to be addressed by the grantee must include the National Enforcement Priorities. Grantees must evaluate these priorities as part of their own priority-setting process and assign resources to them according to their ranking in their overall priority-setting scheme. The priority-setting plan should identify the type of inspections to be conducted in support of the national priorities, and why these categories were selected. Additional non-inspectional enforcement and compliance activities addressing the national priorities should be identified as well.

The priority setting plan should provide an explanation of the criteria used for setting priorities and how these criteria are weighed in establishing priorities (for example, the criterion of harm to human health would, likely weigh more than property damage).

Priorities should be based on the following criteria, in addition to any other criteria pertinent within the state. The greatest emphasis should be placed on items “A” and “B.”

- A. *Degree of harm to human health and the environment:* grantees should take into account the degree of harm to human health or the environment, whether actual or potential, when setting priorities. With regard to this criterion, grantees should use the National FIFRA Enforcement Response Policy which can be found on EPA’s website at: <http://www2.epa.gov/sites/production/files/documents/fifra-erp1209.pdf> and the FIFRA Worker Protection Standard Penalty Policy at: <http://www2.epa.gov/sites/production/files/documents/fifrawps.pdf>. It is important to factor in the degree of harm associated with the violation, even if there are a low or declining number of violations recorded. For example, 8-10 violations with a low level of harm may be less of a priority than 2-3 violations with a higher level of harm.

- B. *Identification of violations*: For new priority-setting submissions, grantees will be expected to submit information on the types of violations and where violations are occurring. Once this information is systematically evaluated, grantees will be able to use it in concert with degree of harm to the environment and human health as a basis for determining priorities. In the meantime, grantees should use the full range of violations data currently at their disposal. Specifically, grantees should consider what if any, recommendations they should make with regard to needed changes in the certification and training programs to follow-up on trends in the violations data.
- C. *Follow-up to federal priorities or state regulations or requirements*: EPA national enforcement priorities for pesticides, state regulations, public pressure or political exigencies may alter the priorities arrived at in A, B and C, and should be accounted for in the priority-setting plan, if possible.
- D. *Economic loss (optional)*: Economic loss due to a pesticide violation may be measured by dollars or by other criteria. The method chosen to measure economic loss must be explained in the priority-setting plan.
- E. *Environmental indicators such as relevant ecological studies (optional)*: When available, relevant ecological data or environmental assessments should be factored into the priority-setting procedure. A groundwater survey may reveal, for example, high levels of groundwater contamination from pesticides used in center-pivot systems.
- F. *Maintaining a Regulatory Presence (optional)*: Certain inspectional activities, such as marketplace or producer inspections, may have a low violations rate and are seldom driven by complaints. They are therefore more difficult to justify in the priority-setting process. A criterion for determining priorities, therefore, can be based on a state's need to maintain a minimum enforcement presence in selected parts of the pesticide community.

It is recognized that a sizable number of inspections throughout the course of the fiscal year will be devoted to following up on tips and complaints, and unforeseen emergencies. The criteria above should be used in prioritizing follow-up to tips and complaints, using primarily criteria A and B as the determining factors. (Follow-up to tips, complaints and referrals could be listed as a priority.)

II. FORMAT

The priority setting plan can either be included in the grantee's work plan or as an attachment. It should include the fiscal years the plan covers and information on the priority areas. For each priority area, provide the information sources (i.e. a review of violations data, toxicity data, tips and complaints, etc.) that were used in establishing priorities. Discuss why the area was identified as a priority. As an example, there was a high degree of actual or potential harm to human health or the environment or both.

Identify the number of inspections to be conducted to follow-up on this priority area. Also state under which categories (e.g., agricultural use, etc.) these inspections fall and why these categories were selected. Identify non-inspectional and/or training enforcement activities, if any, (i.e., enforcement fact sheets to be distributed) as follow-up to a given priority area.

APPENDIX 5:

OPP GUIDANCE FOR SUBMISSION OF STATE AND TRIBAL WATER QUALITY MONITORING DATA

Inclusion of Water Quality Monitoring Data in OPP's Registration Review Risk Assessment & Management Process

Goal:

This Guidance describes the process for the submission of state and tribal surface and groundwater monitoring data, including but not limited to Clean Water Act (CWA) 303(d) & 305(b) data, for consideration in exposure characterizations for ecological and human health risk assessments and in risk management decisions for pesticide registration review.

Target Audience: State and Tribal Pesticide Lead Agencies; State and Tribal Water Agencies.

Background:

EPA's Office of Pesticide Programs (OPP) published the final rule for Pesticide Registration Review on August 9, 2006 with an effective date of October 10, 2006. This program ensures that all pesticides continue to meet current health and safety standards. The Congressional goal is to review all existing pesticides every 15 years. To support this process, OPP is interested in obtaining all available pesticide monitoring data that states and tribes may have for surface water and groundwater.

How Does OPP Use Water Monitoring Data from States and Tribes?

Monitoring data provide snapshots of pesticide concentrations in time at specific locations. In order for OPP to make the best use of these data, we need supporting information that will allow us to put the results in context with the larger picture of pesticide exposures in the environment. The more likely the monitoring sites reflect areas that have a likelihood of pesticide occurrence in water (based on pesticide use as well as local runoff and/or leaching vulnerability), sampling occurs during the time frame in which pesticides are expected to be used, and the sampling is frequent enough to estimate exposures for the endpoints of concern, the more likely OPP will be able to incorporate these data quantitatively in its risk assessment.

OPP uses a tiered approach to risk assessment. The tiered approach screens out low-risk pesticides and focuses refined assessments and resources on pesticides most likely to pose a risk of concern. This approach is summarized in Framework for Conducting Pesticide Drinking Water Assessments for Surface Water (USEPA, 2019)² presented to the FIFRA Scientific Advisory Panel in November 2019. While this framework document is focused on surface water, the tiered approach applies to groundwater, as well, and

² <https://www.regulations.gov/document?D=EPA-HQ-OPP-2019-0417-0006>

utilizes modeling in conjunction with available water monitoring data from both surface water and groundwater to compensate for the fact that monitoring data for most pesticides are usually insufficient to estimate exposure under all potential use conditions and geographic scales.

Typically, monitoring data are screened to identify any detection above modeled values. We do not evaluate the data in a comprehensive manner unless the screening/Tier 1 assessments identify a risk of concern that triggers more refined/Tier 2 assessments. For Tier 2 assessments, when we use monitoring data quantitatively it means that the data can be used as a direct measure of exposure in an ecological or human health dietary assessment. This is a high hurdle to clear because much of the monitoring data available are often not targeted to a particular use pattern or of sufficient frequency to capture durations of concern. How we use monitoring data quantitatively depends on the ancillary data; key among these factors is sample frequency. Sample frequency relative to the duration of concern (e.g., daily peak vs. annual mean) is a key driver in determining how monitoring data can be used quantitatively. However, with adequate ancillary data, monitoring data may be used as direct inputs into risk assessment models. Also, it is possible that while a data set may not be national in scope, it may provide a quantitative measure on a regional or local scale in which case it could be used as a local refinement to national modeling.

If OPP cannot use a monitoring data set quantitatively, it may still be valuable in providing context to the exposure assessments. For instance, detections of a given pesticide can provide a measure of a lower bound estimate of exposure for purposes of risk assessment. While the data may not be robust enough to ensure a high-end exposure has been observed, the detections do indicate that transport to water has occurred at some point during use of a pesticide. At a minimum, qualitative data can provide a balance against modeled estimates and can be useful for characterization of risk conclusions. For example, refinements to modeling sometimes use alternative assumptions that may reduce predicted concentrations. However, if these predicted concentrations approach or are lower than those seen in monitoring data, then this may call into question the appropriateness of the refinement.

For more information on how we use water quality monitoring data in our aquatic exposure assessments, see the document *Evaluation and Use of Water Monitoring Data in Pesticide Aquatic Exposure Assessments* located on OPP's website at: <https://www.epa.gov/pesticide-reevaluation/evaluation-and-use-water-monitoring-data-pesticide-aquatic-exposure>

What are the Most Important Elements Needed for OPP to Use the Data?

OPP recognizes that the types of water quality data collected might be different among monitoring programs. Water monitoring data would be most useful for risk assessment purposes if it included the following elements for surface water and groundwater:

- Study objective (i.e., purpose and design of the monitoring study); a copy of a report describing the purpose and design of the monitoring study or internet web address leading to this information would be useful if available
- Location description (latitude & longitude, if possible, or other reliable location information)
- Water body type (stream, river or other flowing body; lake, reservoir, or other static body; groundwater; nature of aquifer, e.g., surficial or confined)
- Date sampled
- Sample media (e.g., water, filtered water, bed sediment, tissue)
- Chemical analyzed and reported concentration
- Analytical method and limit of detection (LOD) or limit of quantitation (LOQ)

- Depth to water level for groundwater
- Well characteristics, such as well depth, screened interval, and aquifer type if known (e.g., confined vs. unconfined)
- Well purpose (e.g., ambient vs. drinking water)

What Other Important Information Aids in Interpreting Monitoring Data?

- Quality assurance (QA)/quality control for sample collection and analytical methods, including a discussion of any limitations of the data
- Time of sample [e.g., date, time; duration (if a composite), timing to stream hydrograph(if flow-weighted sample)]
- Sample collection method (e.g., grab or composite)
- Time frame and duration of monitoring sampling
- Land use, including cropping pattern, agriculture/urban, etc. preferably in immediate vicinity of sample site though general information on specific pesticide use sites would be useful
- Pesticide usage that could affect water quality at sampling location
- Did the sampling methodology and analytical methods go through a formal QA process? If yes, is this process documented (e.g., in a report or on a website address)?
- For pesticides that adsorb to sediments: percent organic carbon, bulk density, etc.
- For some chemicals, environmental conditions (e.g., temperature, pH, hardness, turbidity) may affect mobility and persistence. If this is known to occur, information on the parameter would be helpful in interpreting the data.

Should I Submit Data that are already Publicly Available?

As a matter of routine, OPP typically checks and reviews the following sources for pesticide monitoring data: 1) United States Geological Survey (USGS) National Water-Quality Assessment (NAWQA) Program; 2) EPA's Water Quality Portal (WQP); 3) United States Department of Agriculture (USDA) Pesticide Data Program Drinking Water Monitoring. If a state or tribe's monitoring data are already contained within these sources, then simply let OPP know. If your data are available on another publicly accessible website, please send us the link.

How Do I Know Which Pesticides OPP is Re-evaluating?

The schedule for pesticides currently in review and those scheduled for review can be found on EPA's website at: <https://www.epa.gov/pesticide-reevaluation/registration-review-schedules>. EPA notifies the public of opportunities to comment through *Federal Register* (FR) notification. Comments are collected during three main re-evaluation phases in each chemical's docket at www.regulations.gov: 1) Registration Review initial docket opening; 2) draft risk assessment; and, 3) proposed decision. Dockets are generally opened for public comment in the months of October, January, April, and July. At the beginning of a review cycle, EPA seeks comment on anticipated chemical-specific work plans and data needs and routinely invites submission of water quality data. Water quality data may be submitted directly to a chemical-specific docket during an open comment period or to OPP's dedicated email box below under "Where Should I Submit Data?"

When Should I Submit Data to OPP?

Data can be submitted to OPP at any time during the registration review process, which generally takes about six years. However, data are of most value approximately six to twelve months prior to initiating work on a draft risk assessment. Regions will work with state and tribal water and pesticide agencies to submit identified data that are not currently accessible through a public website. OPP will publish draft risk assessments for public comment (generally for 60 days) and ask for comment, as well, on possible/practical risk management options for identified risks.

Where Should I Submit the Data?

1. Submit to OPPWaterMonitoringData@epa.gov
2. If file sizes are too large to send via e-mail, contact your EPA Regional office

Who Do I Contact for Further Information?

EPA Headquarters: Tracy L. Perry, Pesticide Re-Evaluation Division, Office of Pesticide Programs, telephone number: (703) 308-0128; fax number: (703) 308-8090; email address: perry.tracy@epa.gov

EPA Regions:

- Region 1: Rob Koethe, Koethe.Robert@epa.gov, (617) 918-1535
- Region 2: Zachary Pendley, Pendley.zachary@epa.gov, (732) 906-6803
- Region 3: Courtenay Hoernemann, Hoernemann.courtenay@epa.gov (215) 814-2216
- Region 4: Richard Corbett, Corbett.Richard@epa.gov, (404) 562-9008
- Region 5: Susan Rittenhouse, Rittenhouse.susan@epa.gov, (312) 886-1769
- Region 6: Eric Nystrom, Nystrom.eric@epa.gov, (214) 665-6752 and
Stephen Angle, Angle.stephen@epa.gov, (214) 665-7369
- Region 7: Marie Blankenship, blankenship.marie@epa.gov, (913) 551-7908
- Region 8: Peg Perreault, Perreault.Peg@epa.gov, (303) 312-6286 and
Kevin Martin, martin.kevin@epa.gov, (303) 312-6085
- Region 9: Patti TenBrook, TenBrook.Patti@epa.gov, (415) 947-4223
- Region 10: Dirk Helder, Helder.dirk@epa.gov, (208) 378-5749

APPENDIX 6: FIFRA COOPERATIVE AGREEMENT APPLICATION REVIEW CHECKLIST

This optional checklist is provided as a reference only to assist new grantees in completing the budget and work plan requirements related to the cooperative agreement application. The FIFRA cooperative agreement work plan and associated reporting must be done in the FIFRA Grant Database. The EPA application kit contains a separate budget sheet for the application. Regional staff may also want to use this checklist to make sure the work plan is complete.

State or Tribe and Lead Agency: _____

Project Period: _____

A. Budget

1. Is there a proposed budget for the following areas if the grantee requests funds in these areas? Does the proposed budget follow the cost categories and include itemized statements per grant Guidance?

certification (minimum 50% match)	YES	NO
enforcement (optional 15% match)	YES	NO
other specific program areas (optional 15% match)	YES	NO
additional program activities	YES	NO
pesticide management program maintenance	YES	NO
Quality Management Plan review (as appropriate)	YES	NO

Comments:

2. Are the costs reasonable in relation to the projected outputs or outcomes for the following areas?

certification	YES	NO
enforcement	YES	NO
other specific program areas	YES	NO
additional program activities	YES	NO

pesticide management program maintenance	YES	NO
--	-----	----

Comments:

B. Narrative Statement

1. Is there a discussion of performance to date regarding areas for which the grantee requests funding?

YES NO

Comments

2. Has the grantee certified that there are no impediments to carry out the proposed program? The grantee must have:

Authority to conduct the proposed program?	YES	NO
--	-----	----

Authority to accept federal funds?	YES	NO
------------------------------------	-----	----

Designation as the Lead Agency?	YES	NO
---------------------------------	-----	----

Comments:

3. Are expected benefits to both the grantee and EPA identified?	YES	NO
--	-----	----

C. General Work Plan Components

1. Has the grantee addressed each of the applicable work plan activities, as described in the attached Guidance?

OCSP	YES	NO
------	-----	----

OECA	YES	NO
------	-----	----

2. Has the grantee provided the information contained in the Guidance to support requests for funding for additional program activities?

	YES	NO
--	-----	----

Comments:

3. Has the grantee provided a schedule for all work plan activities related to:

Specific program areas?	YES	NO
-------------------------	-----	----

QMP/QAPP requirements?	YES	NO
------------------------	-----	----

Additional program activities? YES NO

Comments:

4. Is there an evaluation plan which includes a schedule for mid-year (if required) and end of-year cooperative agreement evaluations?

YES NO

Comments:

5. For new grantees, is there a description of the accounting and filing system?

YES NO

Comments:

D. Enforcement

1. Identification of Work Years and Funding.

	Federal	State	Total
	_____	_____	_____
Work years*			
Inspectional	_____	_____	_____
Administrative	_____	_____	_____
Clerical	_____	_____	_____
Analytical	_____	_____	_____
<u>Other</u>	_____	_____	_____
Total	_____	_____	_____

*Include only those work years actually performing outputs under the cooperative agreement and funded with the dollars indicated above.

a. Are work years to be funded identified by type of activity (inspectional, administrative, clerical, analytical, or other) and cost?

YES NO

Comments:

2. Is a minimum of 50 percent of the total work years directed to inspectional activities?

YES NO

Comments:

3. Are the budgeted inspectional/analytical work years reasonable in relation to the projected outputs?

YES NO

Comments:

4. Has the need for a pesticide enforcement program been adequately addressed?

YES NO

Comments:

5. Has the grantee submitted/referenced a priority-setting plan which addresses the national enforcement priorities and state/tribal priority problem areas?

YES NO

Comments:

6. Has the grantee submitted a projected inspection commitments?

YES NO

Comments:

7. Has the grantee agreed to conduct targeted inspections? YES NO

Comments:

8. Does the grantee commit to consistency with national compliance monitoring strategies?

YES NO

Comments:

9. Does the grantee commit to using the Guidance provided in EPA's updated Pesticides Inspection Manual when conducting inspections?

YES NO

Comments:

E. Quality Assurance

1. Does the grantee have an EPA approved Quality Management Plan (QMP)/ Quality Assurance Project Plan (QAPP)?

YES NO

Comments:

2. Are the following quality assurance practices addressed in the application or QMP/QAPP?

- | | | | |
|-----|--|-----|----|
| (a) | Submittal of Updated QAPP; | YES | NO |
| (b) | Use of standard analytical methods; | YES | NO |
| (c) | Cross-contamination screening program; | YES | NO |
| (d) | Performance evaluation sample program; | YES | NO |
| (e) | Back up Analysis Procedure; | YES | NO |
| (f) | Training of Analytical Chemists; | YES | NO |
| (g) | Laboratory Reviews; | YES | NO |
| (h) | Provisions of Analysis Results; | YES | NO |
| (i) | Submission/Retention of Reports; | YES | NO |

Comments:

F. Enforcement Capability

1. Has the grantee submitted procedures for forwarding inspection reports with suspected violations to EPA?

N/A YES NO

Comments:

2. Does the application provide for an annual written agreement between the state and EPA for the selection, referral, and tracking of significant pesticide use cases under FIFRA Sections 26 and 27?

N/A YES NO

- Comments:
3. Does the application provide as an attachment or reference an up-to-date enforcement response policy (ERP) which the grantee is following? (Note: If EPA has the current ERP, then resubmittal is unnecessary.)

YES NO

Comments:

Does the state agree (in the application) to follow the ERP?

YES NO

Comments:

4. Is there any reference to procedures for resolving cross jurisdictional issues between states and tribes?

N/A YES NO

Comments:

5. Tracking/Management System:

- (a) Does the grantee have a management system for tracking all inspections, violations, and enforcement actions, and rapid identification of the status of a case?

YES NO

Comments:

- (b) For new grantees, is there a description of the system?

YES NO

Comments:

- (c) Does the work program or Quality Management Plan address maintenance of tracking documents and associated files and length of time maintained?

YES NO

Comments:

G. Reporting

1. Does the application provide for the timely submittal of accomplishment reporting?

YES NO

Comments:

2. For new grantees, is there a description of the accounting filing system?

YES NO

Comments:

3. Is there an evaluation plan which includes a schedule for timely completion of mid-year (if required) and end-of-year evaluations?

YES NO

Comments:

4. Does the application address any unresolved issues identified in the most recent mid-year and end-of-year evaluations?

YES NO

Comments:

5. Does the application address submittal of the annual reporting requirements as required by this FIFRA Cooperative Agreement Guidance?

YES NO

Comments:

APPENDIX 7:

EPA PESTICIDE STATE/TRIBAL COOPERATIVE AGREEMENT APPLICATION REVIEW PROCEDURES

A. General

In determining the amount of assistance to award each grantee, the regional office will consider the grantee's annual allotment, the extent to which the grantee's work plan is consistent with this Guidance document, and the reasonableness of the anticipated cost of the grantee's program relative to the proposed outputs or outcomes.

The Regional Administrator will review each cooperative agreement application received and will either approve, conditionally approve, or disapprove the application within 60 days of receipt (40 CFR Part 35.110 - 113).

B. Application Review Panel

The regional office should ensure that a copy of the application be provided to the following for review and evaluation:

- Regional program office
- Regional Grants Management Office
- Other regional offices as appropriate to the regional procedures

The regions are responsible for reviewing all applications to ensure adequacy and compliance with the grant Guidance and applicable cooperative agreement regulations. If a regional program office wishes to consult with headquarters regarding an application, input can be sought as follows:

For questions concerning Worker Safety Programs:

Certification Worker Protection Branch Chief
Pesticide Reevaluation Division
Office of Pesticide Programs
Office of Chemical Safety and Pollution Prevention
Phone - 703/305-7666

For questions concerning all other OCSPP Program Activities:

Intergovernmental and Community Relations Branch Chief
Mission Support Division
Office of Program Support
Office of Chemical Safety and Pollution Prevention
Phone: 703/603-0523

For questions concerning Compliance Monitoring and Enforcement Activities:

Pesticides, Waste and Toxics Branch Chief
Monitoring, Assistance and Media Programs Division
Office of Compliance (2227A)
Office of Enforcement and Compliance Assurance

Phone: 202/564-5940

C. Technical and Programmatic Review

A technical and programmatic review will be made by the application review panel to determine the merit of the proposed outputs and outcomes in view of the national pesticide program areas in this Guidance, and any additional regional priorities. In reviewing applications, the Regions may wish to use the FIFRA Cooperative Agreement Application Review Checklist (Appendix 6) as a means of recording whether administrative requirements have been met. The review should evaluate the pesticide program cooperative agreement application to determine whether:

- The application contains work plan commitments, and time frames for accomplishing the commitments, in accordance with the national Guidance, and any regional guidance as appropriate.
- The grantee's objectives and expected results for any supplemental programmatic or enforcement activities are consistent and compatible with the national Guidance, and any regional guidance as appropriate.
- The resources (funds and work years) requested are reasonable when compared to the projected outputs and outcomes in the work plan for the specific program areas, or any additional programmatic or enforcement supplemental activities.

The region should also determine if successful completion of the work plan is possible in view of the grantee's existing program and enforcement authority, resources, quality system and other applicable, known issues.

D. Time Factor Guidelines

SFIREG developed, and EPA agreed to, the following output time factors for use as a guide in evaluating pesticides enforcement cooperative agreement applications with regard to inspection and sample analysis activities. These time factors are used for comparing the number of inspectional and/or analytical work hours to be funded with the number of inspections to be conducted and the number of samples to be collected and/or analyzed.

<u>Activity</u>	<u>Work hours to Complete Activity</u>
Agriculture Use Inspection	20
Agricultural Follow up Inspection	20
Nonagricultural Use Inspection	15
Nonagricultural Follow up Inspection	20
Experimental Use Inspection	15
Producer Establishment Inspection	15
Marketplace Inspection	05
Import Inspection	10
Export Inspection	10-15
Applicator License and Records Inspection	05
Dealer Records Inspection	05
Physical Sample Collection and Preparation	05
Physical Sample Analysis	
Residue	25
Formulation	11

The time factor values should take into account all inspection or analytical time spent to complete an activity, including travel time, document preparation, sample shipment, etc. The work hours should also include the prorated time for administrative activities of inspectors and chemists. In general, only the inspection and analytical work hours should be used to calculate productivity levels. Additional time spent by staff other than inspectors or chemists for administrative, case preparation, legal, clerical, and program planning activities time may be charged if the activities are prerequisites to conducting the activity.

Regions will use the time factors as a guide for negotiating and evaluating pesticide enforcement applications. With regard to inspection and sampling activities, the projected number of inspections, samples, and analyses multiplied by the established time factors should approximately equal the number of work hours which each grantee requested to complete the projected outputs under the cooperative agreement. The Agency considers productivity levels between 85% and 115% of the established standard to be in the acceptable range. It is understood that deviations from these time factors may occur because of differences in travel time, local procedures, etc. To ensure equal treatment of all grantees, a normal work year consists of 1800 hours after allowing for leave and holidays.

E. Administrative Review

The Regional Grants Management Office will perform an administrative review and evaluation to determine whether the application meets the requirements of the EPA Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards; Title 2 CFR, Parts 200 and 1500. Additional references which may be helpful when developing or reviewing an application include specific sections of 40 CFR, Part 35 below:

For States:

Pesticide Enforcement: 40 CFR Part 35.230 - 35.235

Certification & Training: 40 CFR Part 35.240 - 35.245

Pesticide Program: 40 CFR Part 35.250 - 35.252

For Tribes:

Pesticide Enforcement: 40 CFR, Part 35.640 -35.645

Certification and Training: 40 CFR Part 35.646-35.649

Pesticide Program: 40 CFR Part 35.650-35.659

At each stage of the evaluation, the grantee may be required to provide further information, or may need to amend the application to satisfy the concerns of the Agency.

F. Guidance on Evaluating Proposed Funding

Project Officers are currently required to review an applicant’s budget to ensure that proposed costs are eligible, allowable, allocable, reasonable and necessary. Therefore, evaluating whether “funding is reasonable given projected work plan tasks” is part of the existing requirements of the application process. Grant regulations, online training and agency guidance help project officers determine reasonableness.

Specifically, 2 CFR Part 200.404 sets forth that “[a] cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.” The regulation provides that, when determining reasonableness, consideration should be given to:

- Whether the cost is of a type generally recognized as ordinary and necessary for the performance of the work (2 CFR Part 200.404(a));
- Market prices for comparable goods or services for the geographic area (2 CFR Part 200.404(c)).

Generally, Project Officers are expected to review three budget categories; personnel, travel and supplies. When reviewing costs for personnel and travel, costs within 10% of the previous application can be considered reasonable. Therefore, comparing costs to a FIFRA STAG applicant’s history is an acceptable method for evaluation. Variations greater than 10% must be explained and the Project Officer should use the prudent person standard to determine reasonableness. Supplies are tangible personal property other than equipment and the applicant must identify general materials and supplies to be used in furtherance of work plan tasks. The prudent person standard should be used to evaluate reasonableness of costs for supplies.

APPENDIX 8:

GUIDELINES FOR EPA FORM 5700-33H IN THE FIFRA GRANT DATABASE

Every pesticide enforcement cooperative agreement, negotiated between EPA and the state or tribe, must include a work plan, which includes output projections broken down into eleven inspection categories. The FIFRA Grant Database must be used for this purpose. The work plan must also specify that participating states and tribes are to report back to the Agency, at least annually or as negotiated with the region, on the actual number of inspections conducted by inspection category, and the resulting enforcement actions, also by standard categories [e.g., civil complaint, criminal action, number of warnings].

All grantees participating in the FIFRA cooperative agreement program must project and report accomplishments for the pesticide enforcement program using EPA Form 5700-33H in the FIFRA Grant Database.

The guidelines and definitions below should be followed to insure uniform reporting.

A. Reporting Under the Cooperative Agreement

The Agency encourages grantees to provide the Agency with summaries of their total yearly pesticide inspection and enforcement accomplishments. The Agency believes that this summary will not only provide a more accurate picture of grantee inspection and enforcement programs, but also give a more realistic national view as well. Total program accomplishments include all activities conducted under the cooperative agreement, including those completed with “state/tribal funds.”

B. Output Projections

Output projections must be submitted in the work plan and included with the cooperative agreement application. These numbers represent the grantee’s annual commitments under the cooperative agreement. Grantees are not asked to make projections for activities to be conducted outside of the cooperative agreement program.

C. Accomplishments

In order to evaluate performance under the pesticide enforcement cooperative agreement work plan, accomplishments must be reported annually. The accomplishments reported must include inspections conducted, samples collected, and enforcement actions taken. Reports must be submitted to the regional office by the grantee as indicated in the FY22-25 FIFRA Cooperative Agreement Guidance.

Grantees must submit their inspection information to the regions annually, as negotiated with the regions, within 90 days after the project period ends. Regions will then review the information for completeness and submit it via the FIFRA Grant Database by March 30th each year.

The following are uniform reporting requirements for reporting accomplishments:

1. Inspections should be reported only if an appropriate inspection report is completed.
2. The **initial reason** for the inspection **determines** the appropriate inspection **category** for reporting.
3. If more than one type of inspection is conducted for the same visit, and each inspection is completely documented, then each inspection can be counted as a separate inspection.
4. Grantee enforcement actions resulting from inspections are reported on Form 5700-33H in the FIFRA Grant Database. This includes enforcement actions for both federal and state/tribal violations.
5. Enforcement actions should be reported for the period in which they are **issued**, regardless of when the inspection was conducted.
6. Enforcement actions are to be reported under the inspection category heading for the initial inspection which led to the enforcement action.
7. Enforcement actions which are not the result of inspections in the field are to be reported in the narrative portion of the report.

See Section D, Inspection Category Definitions, below for additional uniform reporting requirements for use and follow-up inspections.

D. Inspection Category Definitions

The eleven standard inspection categories listed on EPA Form 5700-33H are defined, for uniform reporting purposes, as follows:

It is understood that many states/tribes conduct inspections which are not specified as separate inspection categories on Form 5700-33H or defined in these guidelines. Grantees should consult with their regional office to determine which inspection categories most closely match such inspections. Inspections that do not fall within one of the eleven standard inspection categories of the form should be reported in the narrative portion of the accomplishments report. Inspection reports of all inspections conducted using EPA credentials must be forwarded to EPA.

Use Inspections

A use inspection may be initiated as an observation of an actual pesticide application or as an inspection following an application. This type of inspection is usually selected using a neutral or routine inspection scheme. Use inspections also include the investigation of the many facets of the use of a pesticide including storing, handling, mixing, loading, and disposal. Section 18 and Section 24(c) use inspections will be included in this category for reporting purposes. Uniform reporting requirements are:

- Use inspections are differentiated from for cause inspections by the initial reason for the inspection.
- Use inspections are initiated without a reason to believe that a violation has occurred or is occurring.
- Use inspections remain use inspections even if a violation is encountered.
- A use inspection requiring multiple visits should be reported as only one use inspection even though many sites may be visited.

For example, in a use inspection all of the following sites may be visited: application site, adjoining property, dealer where the pesticide was purchased to review sales records, and place of business of certified applicator to review records. The visits to the dealer and applicator should not be reported as separate inspections if these visits were part of the use inspection.

a. Agricultural Use Inspections

Agricultural use inspections include the inspection of pesticide applications in conjunction with the production of agricultural commodities as defined in 40 CFR Section 171.2(a)(5) as follows:

The term “agricultural commodity” means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters or other comparable persons) primarily for sale, consumption, propagation or other use by man or animals.

b. Non-agricultural Use Inspections

Non-agricultural Use Inspections include the inspection of non-agricultural pesticide applications.

For Cause Inspections

A For Cause inspection is usually initiated in response to a complaint, damage report, referral, tips, etc. following a pesticide application. Section 18 and 24(c) follow-up inspections will be included in this category for reporting purposes. Due to the potential for harm to human and the environment, it is important that the inspector initiate For Cause inspections as soon as possible after the receipt of an alleged misuse.

Uniform reporting requirements are:

- For Cause inspections are differentiated from use inspections by the initial reason for the inspection because the inspector may be required to visit a number of sites, interview various persons and/or collect a number of samples.
- For Cause inspections are initiated when there is reason to believe that a violation has occurred or is occurring.
- For Cause inspections remain for cause inspections even if a violation is not detected.

Agricultural For Cause Inspections

Agricultural For Cause inspections are inspections of a suspected misuse of pesticides in conjunction with the production of agricultural commodities as defined in 40 CFR Section 171.2(a)(5).

Non-agricultural For Cause Inspections

Non-agricultural For Cause inspections are inspections of suspected misuse of pesticides in all categories of non-agricultural applications.

Experimental-Use Inspections

An experimental-use inspection may be an actual observation of an application or a For Cause inspection of records to determine compliance with the experimental-use permit. All inspections must be conducted on site; telephone calls or correspondence reviews will not be counted as inspections.

Producer Establishment Inspections

A producer establishment inspection (PEI) is an inspection of an establishment where pesticides or devices are produced and held for distribution or sale, for the purpose of inspecting the facility's products and obtaining samples. While conducting PEIs, product labels, containers and records should be examined for compliance. Inspection of the books and records required by Section 8 are also part of these inspections. Note: inspections involving the container/containment rules are typically conducted during PEIs.

Marketplace Inspections

A marketplace inspection is an inspection conducted at the retail, distribution, wholesale, or user level for the purpose of determining product registration status, proper storage and display, any labeling violations, any product decomposition, and for collecting official samples. To be counted as an output, the marketplace inspection must be documented in accordance with the provisions set forth in the EPA Pesticides Inspection Manual.

Import Inspections

An import inspection is an actual inspection of a product being imported into the United States to determine whether the product is in compliance with FIFRA. Telephone calls and review of import papers in the inspector's office will not be counted as inspections.

Export Inspections

Export inspections are considered to be intensive Section 8 books are records inspections that will involve the review and collection of a large number of documents and several affidavit statements by regional/state inspector(s) from responsible company officials. Inspection activities will consist of three (3) parts: pre-inspection document collection and review; on-site inspection activities to review and obtain additional documents; and inspection report writing and organization of inspection documents.

An export inspection is an inspection directed toward those pesticides that are intended for export to determine whether they are prepared and packaged in accordance with the specifications and directions of the applicable foreign purchaser and consistent with the EPA Statement of Policy on the Labeling Requirements for Export Pesticides, Devices, and Pesticide Active Ingredients and the Procedures for Exporting Unregistered Pesticides.

Certified Applicator License and Records Inspections

This type of inspection is normally conducted at a pesticide applicator's place of business. The purpose of the inspection is to determine if: (1) the applicator is properly certified and/or licensed, (2) the required records are being maintained, (3) the applicator is applying pesticides only in those areas for which certification has been issued and (4) the records indicate that all applications have been made in compliance with all applicable laws and regulations.

Inspections of non-certified applicators, pest control operators, etc., for the purposes described above should also be reported in this category.

Restricted-Use Pesticide Dealer Records Inspections

This type of inspection is conducted on-site at dealers who sell restricted-use pesticides. The purpose of the inspection is to determine if: (1) the dealer is properly licensed or certified (if required) and maintaining the required records and (2) restricted-use pesticides are being sold only to certified applicators or other properly authorized persons by reviewing the dealer's records.

E. Sample Definitions

Physical samples refer to extracted volumes or other substances taken for analysis in determining product formulation, use dilution and residue concentrations.

Documentary samples are samples collected when physical samples of pesticides or devices are not collected. Generally they consist of a complete label, photographs of the pesticide container or the device and all labeling accurately representing what accompanied the formulation or device in the channels of trade.

Since the number of samples is also used for determining laboratory workload and productivity, documentary or non-physical samples should be differentiated so as not to be reported as sample projections on EPA Form 5700-33H. Documentary samples may be projected in the narrative portion to accompany EPA Form 5700-33H, if a grantee would like to do so. However, as stated above, only physical samples are required to be projected.

F. Sample Accomplishments

With respect to samples collected, both physical and documentary samples shall be reported.

G. Enforcement Action Category Definitions

Enforcement actions initiated as a result of an inspection may be reported on EPA Form 5700-33H within the FIFRA Grant Database.

It is understood that many grantees initiate enforcement actions which are not specified as one of the standard categories for enforcement action on EPA Form 5700-33H or defined in these guidelines. The state/tribe should consult with their regional office to determine which reporting categories most closely match such enforcement actions. Enforcement actions not readily falling within one of the ten standard categories on the form should be reported in the enforcement action category **“Other Enforcement Actions”** and described in the narrative portion of the accomplishments report.

The eleven standard categories of enforcement actions listed on EPA Form 5700-33H are defined, for uniform reporting purposes as follows:

1. Civil Complaints Issued

Civil Complaints include any written notice proposing a monetary penalty for a violation. These actions should be reported during the period in which they are issued to the respondent.

2. Criminal Actions Referred

Criminal Actions are those legal actions pursued in a court of law. These actions should be reported during the period in which the case is referred to the judicial system (e.g., State Attorney General, District Attorney or County Prosecutor).

3. Administrative Hearings Conducted

An Administrative Hearing is when an alleged violator is required to appear before a state, tribal or federal hearing officer to explain why the violation occurred. For purposes of the 5700-33H form, states/tribes should only report administrative hearings that are not associated with other enforcement actions. These actions should be reported during the period in which the hearing is conducted.

4. License/Certificate Suspension

5. License/Certificate Revocation

6. License/Certificate Conditioning or Modification

These are usually administrative actions taken to further restrict the use of restricted-use pesticides by certified applicators by suspending, revoking or modifying the terms of the applicator's license or certification.

7. Number of Warnings Issued

To be counted, warnings must be a **written notification** pointing out the violation(s) and placing the recipient on notice that further violation may result in additional enforcement action. Warnings should be reported during the period in which the warning was issued.

8. Stop-Sale, Seizure, Quarantine, or Embargo

All official written orders for removing products in violation from sale or use should be reported in this category.

9. Cases Forwarded to EPA for Action

This includes all inspection files that document violations of FIFRA and are forwarded to EPA for enforcement action.

10. Other Enforcement Actions

This is any other written, verifiable enforcement action initiated by the state, tribe or federal agency that is not comparable to one of the above enforcement action categories.

11. Number of Cases Assessed Fines

This figure indicates the number of enforcement cases resulting in the assessment of a monetary fine (e.g., civil complaint settlements, criminal court actions, or administrative hearing orders).

H. Narrative

Accomplishment Reports should be accompanied by a narrative portion as described below:

Inspections Conducted

Inspections which do not fall within one of the eleven standard inspection categories should be reported in the narrative.

Enforcement Accomplishments

Enforcement actions not readily falling within one of the standard categories on the form should be reported in the enforcement action category “Other Enforcement Actions” and described in the narrative portion.

Enforcement actions which are not the result of inspections in the field may be reported in the narrative.

Some examples of what would be included under “other enforcement actions” include the following; advisory letters, agreements on remedial action, notices of intent to sue, consent agreements, reports of substandard treatments, treatment correction notices, and stop work order notice.

A “field notice” would be included under the category of “other enforcement actions” (as opposed to the “warning” category) only if it does not meet the definition of a “warning” as described in item number 7.

APPENDIX 9:

GUIDELINES FOR WPS EPA FORM 5700-33H IN THE FIFRA Grant Database

All grantees participating in the FIFRA cooperative agreement program must project and report accomplishments for their pesticide enforcement program. EPA Form 5700-33H is contained in the FIFRA Grant Database and must be used to provide this information to the Agency. This information will provide a more accurate picture of a grantee's inspection and enforcement program and provide a more realistic national view as well.

WPS Agricultural Inspections Enforcement Reporting

Grantees must submit required information annually, as negotiated with the regions, within 90 days after the project period ends. Regions will then review the information for completeness and submit the information via the FIFRA Grant Database by March 30th each year.

WPS EPA Form 5700-33H is divided into two sections. The left side of the form is divided in four columns to collect total number of WPS inspections conducted in a reporting period:

1. WPS Tier I Inspection column: is subdivided in two columns, *Use and For Cause* to collect total number of WPS Tier I agricultural use inspections, and the total number of Tier I for cause inspections conducted during the reporting period. This includes capturing the number of inspections conducted at facilities claiming the Immediate Family Exemption. The total number of inspections at facilities claiming the Family Exemption, a subset of the total Tier 1 and Tier II inspections, is recorded in the Immediate Family Exemption block.
2. WPS Tier II Inspection column: is subdivided in two columns, *Use and For Cause* to collect total number of WPS Tier II agricultural use inspections, and the total number of Tier II for cause inspections conducted during the reporting period. This includes capturing the number of inspections conducted at facilities claiming the Immediate Family Exemption. The total number of inspections at facilities claiming the Family Exemption, a subset of the total Tier 1 and Tier II inspections, is recorded in the Immediate Family Exemption block.
3. Total Inspections column: is to collect total number of WPS Tier I and Tier II inspections.
4. Inspections at Facilities Claiming Family Exemption Column: is a subset of the WPS Tier I and Tier II to collect data on inspections conducted at facilities claiming family farm exception to provide EPA with better data on the size of this component in the regulated community.

Note: The C&T portion of the form does not need to be completed.

WPS Enforcement Actions

Some Enforcement Action Categories are deleted from the EPA Form 5700-33H because they are not applicable to WPS enforcement. Report total number of enforcement actions taken under the inspection heading (Tier I - Use or For cause, Tier II - Use or For cause).

Violations during WPS Inspections

The right side of the WPS EPA Form 5700-33H is for collecting violations documented during WPS inspections. There are ten WPS Violation Categories listed in the first column.

The second column is for reporting number of violations. Number of WPS violations is going to be greater than the number of enforcement actions on the left hand side of the form. The goal of this section is to highlight areas of the WPS Rule where compliance difficulties remain, where compliance assistance activities and enforcement targeting may be focused, and used to monitor national trends. Each state in-tum should use this data to feedback into future compliance efforts and future enforcement targeting.

EPA recommends that all grantees with enforcement programs provide this information to fulfill our goal. If you are interested in additional information, links to additional materials are provided below for your convenience.

U.S. EPA Worker Protection Standard Agricultural Inspection Guidance

The WPS Agriculture Inspection Guidance provides useful information to inspectors on how to conduct thorough and nationally consistent agricultural inspections under EPA's WPS program.

<https://www.epa.gov/compliance/worker-protection-standard-agricultural-inspection-guidance>

Risk-Based Inspection Targeting Strategy for Worker Protection Compliance Monitoring Activities

States and tribes should verify compliance with the WPS through both routine inspections and inspections targeted to focus on establishments or situations that pose the highest risk to pesticide workers and handlers in agriculture. This Guidance provides a targeting approach states and tribes can use to identify the establishments and situations in the state or area of tribal jurisdiction that represent the highest risk to pesticide workers and/or handlers.

<https://www.epa.gov/sites/production/files/2014-10/documents/wps-cm-review-2004.pdf>

CDX Platform for FIFRA Grant Database:

<https://cdx.epa.gov/>

APPENDIX 10:

GUIDELINES FOR CONTAINER/CONTAINMENT EPA FORM 5700-33H IN THE FIFRA GRANT DATABASE

Introduction

All grantees participating in the FIFRA cooperative agreement program must project and report accomplishments for their pesticide enforcement program. EPA Form 5700-33H is contained in the FIFRA Grant Database and must be used to provide this required information to the Agency.

Grantees must submit all required information annually, as negotiated with the regions, within 90 days after the project period ends. Regions will then review the information for completeness and submit via the FIFRA Grant Database by March 30th each year.

Types of Inspections

The left side of the Container/Containment EPA Form 5700-33H is set up to collect the number of inspections for two types of inspections: (1) producer establishment inspections with containment and (2) non-PEI containment only inspections. These types of inspections are described below in the definitions section.

Container/containment information could be collected during other types of inspections, such as producer establishment inspections (without containment) and marketplace inspections. The number of PEIs and marketplace inspections should be reported annually as outlined in the Guidance, and must be reported on the standard EPA Form 5700-33H within the FIFRA Grant Database.

The right side of the form is for collecting Container/Containment potential violations documented during inspections. Nine violation categories are listed and they are defined below. The totals here should represent the violations found during any type of Container/Containment inspection, i.e., producer establishment inspections with containment; non-PEI containment only inspections; PEIs without containment; or marketplace inspections.

Definitions

Producer Establishment Inspection with Containment - A producer establishment inspection (PEI) with containment is an inspection of an establishment where agricultural pesticides are held in stationary bulk containers prior to being repackaged (produced) and held for distribution or sale; for the purpose of inspecting the facility's products, obtaining samples, and ensuring that secondary containment of the stationary containers is compliant. When conducting a PEI, product labels, containers, containment and records should be examined for compliance. Inspection of the books and records required by Section 8 also are part of these inspections. In order for a PEI inspection to count as a containment PEI, the inspector must inspect the containment areas. These inspections are a subset of PEIs on the general 5700-33H form and should be included in that total.

Non-PEI Containment Only Inspection - A non-PEI containment only inspection is conducted at a facility engaged in custom blending of pesticides or commercial application of pesticides that have stationary pesticide containers that are subject to the regulations or a pesticide dispensing area.

Containment and dispensing areas should be examined to determine if they are in compliance. These inspections are not included under another category on the general 5700-33H. States that are implementing state pesticide containment regulations (that provide at least equivalent environmental protection to the federal pesticide containment regulations) are encouraged – but not required – to report their non-PEI containment only inspections.

Violations

1. **Deficient labeling (i.e. cleaning and disposal instructions)** – Violations of any of the labeling requirements for refilling statements and cleaning instructions.
2. **Deficient container design (valves, openings)** – Violations of the requirements for container design (DOT regulations); marking; tamper-evident devices; one-way valves; container integrity; vent, gauge, and/or shutoff valve standards.
3. **Producing Establishment registration violations** – Violations of the establishment registration, reporting or record keeping requirements.
4. **No contract manufacturing agreement, residue removal instructions, list of acceptable containers** – Failure to provide or possess a contract manufacturing agreement (or the repackaging contract), residue removal and cleaning procedure, list of acceptable containers, or current labeling.
5. **Deficient management procedures & operation** – Failure to visually inspect containers prior to refilling, clean containers prior to refilling if necessary, or securely attach labels.
6. **Record keeping** – Failure to keep records of the residue removal procedure, list of acceptable containers, or contract manufacturing agreement at all or maintain them for 3 years; for each time a container is filled, the EPA registration number, the date of repackaging, or the serial number or identifying code of the container.
7. **Secondary containment & pads – capacity/design** – Violations of the requirements for design, construction materials, appurtenances, configurations of drains, and stormwater control.
8. **Secondary containment & pads – site management** – Violations of the requirements for operation, inspection, and maintenance.
9. **Secondary containment & pads – record keeping** – Failure to keep records of the person conducting inspection or maintenance and date, conditions noted and maintenance performed, how long non-stationary tanks remained at the facility, or construction date of the structure at all or maintain them for 3 years.

APPENDIX 11:

REPORTING AND COORDINATION OF HIGH LEVEL PESTICIDE INCIDENTS

Grantees are required to report high level pesticide incidents to EPA regions within the first 24 hours of learning about the event. It is understood that not all details will be available immediately, but will need to be reported as they are learned. As described below, high level pesticide incidents involve possible serious adverse effects to human health or the environment and most likely require coordination between EPA offices and other agencies. These incidents may or may not be a referral under FIFRA Section 27(a).

Definition of a High Level Incident

High level pesticide incidents involve possible serious adverse effects which may require close cooperation with EPA offices or other agencies to conduct an investigation or to bring the incident to resolution. Examples of high level incidents may include but are not limited to:

Human-related:

- Human fatality;
- Any incident involving schools, schoolchildren or minors;
- Hospitalization of exposed human(s);
- Confirmed exposure to 5 or more individuals (if a low risk pesticide is involved the number can be higher);

Pet/Domestic Animals/Livestock:

- Incident involving death to livestock or another domestic animal;
- Confirmed exposure or death of a pet;

Ecological:

- Widespread environmental contamination (or potential thereof);
- Fish or wildlife incidents that meet the following threshold:
 - 25 or more aquatic animals (fish, tadpoles, shellfish, etc.)
 - 3 or more raptors (e.g., eagles, hawks, and owls)
 - 10 or more non-raptor birds
 - 1 or more large mammalian or reptilian predator(s) (e.g., wolf, coyote, mountain lion, or alligator) or megafauna species (e.g., bison, elk, or moose)
 - 5 or more mammals, reptiles, or terrestrial amphibians of types other than large predators or megafauna
- Any incident involving a federally listed species;
- Alleged pollinator incidents involving 50 or more bees;
- Significant damage to crops;
- Potential for illegal food crop or commodity pesticide residues;
- Significant fire, spill or improper disposal involving pesticides;

- Homeland Security issues (e.g., pesticides implicated in a situation impacting a large population, food/water supply or livestock; or pesticides needed to control a pathogen, virus or bacteria);

Other:

- Unusually large and unexpected number of incidents involving a certain active ingredient (AI) or product reported within a short time span;
- Potential for significant media coverage based on specific use incident.

In addition, some high-level reportable incidents may occur with federally exempt pesticides, e.g., treated seeds, 25(b) pesticides. Each regional office, OCSPP's Office of Program Support (OPS), OECA's Office of Compliance (OC) and OECA's Office of Civil Enforcement (OCE) shall use its best professional judgment to identify a high level incident.

Notification Requirements and Process

When a grantee determines that an incident requires high level pesticide incident reporting, it will initiate the process by reporting the incident to the regional point of contact (POC) who may be the project officer, technical contact or pesticide program or enforcement supervisor. Regions should contact the headquarters offices within the first 24 hours. Each regional and headquarters office (OCSPP-OPS, OECA-OC and OECA-OCE) will identify primary and backup points of contact (POCs) to ensure timely transmission of incident information to each other if a high level incident occurs.

The regional POC should be contacted as soon as possible, but no later than 24 hours after receiving incident information. Grantees should not wait to notify the region until the information is complete and confirmed but should caveat and qualify initial information as appropriate. The initial contact should be via phone (by direct contact, not voice mail), followed up by an e-mail. The initial information should include the following information if available:

- Location (preference for latitude/longitude, township or other),
- Pesticide or substance involved or suspected,
- Date of incident,
- Target site/pest (if there is one),
- Source of information,
- Brief description of incident,
- Identity of future contact person(s), and
- When the reporting agency will be able to provide an update.

The regional POC will relay the information to headquarters and their own regional management as soon as possible but no later than 24 hours after their communication was received. It is understood that not all details may be available immediately and will need to be communicated as more information is learned. The initial call should go to the following offices:

- OCSPP-OPS Intergovernmental and Community Relations Branch Chief
- OECA-OC Pesticide, Waste & Toxics Branch Chief, and
- OECA-OCE Pesticides and Tank Enforcement Branch Chief.

In addition, the incident should be sent to OPP's pesticide incident mailbox:

Report.Pesticide.Incident@epa.gov. If there are any questions about who to contact, reach out to staff in the OCSPP-OPS Intergovernmental and Community Relations Branch, or OECA's OC or OCE offices.

The regional POC will then follow up with a brief e-mail (which includes any information from the state or tribe) relaying basic details of the incident. At this point, the regional POC also needs to ascertain if this is the type of incident that would require notification of the Regional Incident Management System (this may be a Regional Incident Coordination Team (RICT) or an Emergency Response Center). Each region has a 24/7 emergency phone number. Other federal agencies will be notified by the regional POC when the situation warrants.

The OCSPP-OPS POC will notify the OECA-OC and OECA-OCE contacts and each will disseminate the incident report to other parts of their organization, as appropriate (e.g., upper management, human health specialist, incident coordinator, water quality coordinator, etc). Note, incidents reported to OPP will be used to assess future registration decisions.

If an EPA headquarters or regional office learns of an incident through a tip, via media coverage or other source of information, EPA will implement this process in the reverse order to assure that the grantee is aware of it.

After all affected EPA offices are informed, subsequent information may be communicated via the original process when circumstances require, or as determined by the offices involved.

Impacts on Future Registration and Registration Review Decisions

An OPP Incident Screening Team representing all OPP divisions is actively developing a screening system to ensure all reported high priority incidents are screened in a timely manner and included in future registration decisions as appropriate. Based on the severity of the incident, there are three possible outcomes:

- 1) The team concludes that the incident is likely a high-priority incident requiring immediate attention by the chemical team to determine the appropriate next steps;
- 2) the incident is not a high priority incident, but is of sufficient significance that the chemical team should be made aware of the incident; and
- 3) the incident can wait until the next review of the chemical for either a registration action or registration review.

Generally, these incidents won't be forwarded, but rather kept in OPP's Incidents Data System to be incorporated into future risk characterizations documents.